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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

O.A. No.2099/88.

New Delhi, this the 04th day of February, 1994.

SHRI J.P.SHARMA, MEMBER(J).
SHRI B.K.SINGH, MEMBER(A).

Shri Bhom Singh,
son of late Shri Dhanna Ram, By
(Sh. Dipak K. Nag, Advocate)
M/s. Lawyers Syndicate,
473, Vikas Kunj,
New Delhi-110018. ...Applicant
(By advocate : Shri D.K.Nag)

VERSUS

Union of India,
through the Chief Security Officer,
Secretariat Security Force,
Ministry of Home Affairs,
New Delhi. ...Respondent
(By advocate : Shri K.C. Mittal)

O R D E R

SHRI J.P. SHARMA :

The applicant has been working as Sepoy, Secretariat Security Force, Ministry of Home Affairs and has the grievance against the order dated 11.2.1988 whereby promotion to the post of Havildar was passed by the respondents (Annexure 'E') but the name of the applicant does not figure while the juniors are said to be empanelled for the post of Havildar.

2. The application has been filed on 27.10.1988 for the reliefs that the aforesaid impugned order dated 11.2.1988 be quashed. Another prayer is that any further order proposed to be passed in the first week of November be also quashed and the respondents be directed to promote the applicant with immediate effect, with all consequential benefits.

2. The applicant was appointed on 4.2.1969 and was granted seniority no. 468. The applicant was not found fit for confirmation till 21.3.1983 and he was assigned seniority with the persons confirmed with effect from that date. His seniority No. as on 11.3.1985 is at serial no. 436 as shown in Annexure II filed with the counter, in view of the fact that the applicant could not be empanelled.

3. The counsel for the applicant Shri D.K. Nag pointed out that the seniority drawn by the respondents is incorrect as the date of appointment to the cadre of Sepoy should determine the seniority and not the date when the applicant was confirmed in his appointment. The seniority list as in March 1985 filed by the respondents (Annexure II) is based on the date of confirmation. The contention of the learned counsel cannot be ignored in view of the fact that confirmation is one of the inglorious circumstance in service. If the applicant has been allowed to officiate even after completing a period of probation then he has right to be confirmed in his appointment. A perusal of the promotion order dated 11.2.1988 goes to show that the persons who joined subsequently to the applicant have since been promoted as Havildar and the applicant could not be empanelled because he was to be considered alongwith the sepoy's confirmed in March 1983.

4. In this application the applicant has not challenged the seniority list. The seniority list dated 11.3.1985 goes to show that one month's time was given to file any objection with respect to the gradation list by any of the aggrieved persons. The applicant had made representation regarding his non promotion to Havildar but he has never made representation as none of such representation has been filed to show that he has agitated the seniority list assigning

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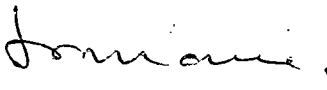
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him of wrong placement. In view of this fact the seniority list has become final. The applicant has also not made any challenge to the said seniority list in the present application.

5. In view of the above facts and circumstances, none of the Sepey junior to the applicant as per the seniority list of 11.3.1985 has been promoted to the rank of Havildar. The impugned order, therefore does not call for any interference. The application, therefore, is dismissed.


(B.K. Singh)
Member(A)


(J.P. Sharma)
Member(J)

Mittal