

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

DA HD.703/BB

DATE OF DECISION: 13.09.1993.

SHRI S. M. SOGANI & OTHERS

...PETITIONERS

VERGEG

UNION OF INDIA THROUGH THE
CENTRAL PROVIDENT FUND
COMMISSIONER, MAYUR BHAWAN,
NEW DELHI 6 & ANOTHER

... RESPONDENTS

CORAM:- THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)
THE HON'BLE MR. B.S. HEGDE, MEMBER (J)

JUDGEMENT (ORAL)
(HON'BLE MR. I.K. RASGOTRA)

Neither the petitioner nor his counsel is present. It is also evident from the ordersheets dated 24.2.1989 and 21.4.1989 that neither the petitioner nor his counsel have been pursuing the matter.

2. The petitioner Shri S.M. Sogani alongwith 38 others working as Head Clerk/Upper Division Clerks in the office of Regional Provident Fund Commissioner, Delhi have prayed for the relief that their seniority should be fixed in accordance with the decision of the Hon'ble Supreme Court in SLP No.7274/87 - Regional Provident Fund Commissioner vs. Mohinder Kumar & Others decided on 11.8.1987 and the decision of the Chandigarh Bench of the Tribunal in Mohinder Kumar's (supra) case. Identical matters had come up for decision

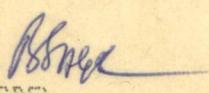
2

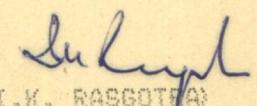
-2-

before the Full Bench of the Tribunal in TA-43/87 (2172/85) and 5 other OAs decided on 5.2.1993. The Tribunal had held that the persons promoted by both the modes of promotion, i.e., through the departmental competitive examination and on the basis of seniority-cum-fitness, their inter-se-seniority shall be determined on the basis of total length of service which will be reckoned from the actual date of their promotion in accordance with the relevant rules. The promotion made by way of ad hoc or stop-gap arrangement due to administrative exigencies and not in accordance with rules cannot count for seniority. It was further held that the rota quota principle of seniority is not applicable for determining the seniority to the cadre of UDCs and further that the order of the Supreme Court in Mohinder Kumar's case constitutes a binding precedent.

3. In view of the above decision of the Full Bench the petitioners herein are entitled to refication of seniority in accordance with the principles laid down in TA-43/87 (CWP 2172/85) etc. - Shri Ashok Mehta & Others vs. Regional Provident Fund Commissioner & Others decided on 5.2.1993.

4. The O.A. is disposed of as above. No costs.


(D.S. HEGDE)
MEMBER (J)
San.


(I.K. RASGOTRA)
MEMBER (A)