

Central Administrative Tribunal
Principal Bench: New Delhi.

Regn.No.OA-829/88 Date of Decision:6.12.1990.

Shri Jaskaran Singh Applicant.

Vs.

Union of India & Ors. ... Respondents.

For the applicant ... Shri B.S.Mainee,
Advocate.

For the respondents ... Shri B.S.Mahendru, proxy
counsel for Shri P.S.
Mahendru.

CORAM: Hon'ble Shri S.P.Mukerji, Vice-Chairman
Hon'ble Shri T.S.Oberoi, Member (Judl.)

JUDGEMENT

(Delivered by Hon'ble Shri S.P.Mukerji)

The facts of the case in this application lie within a narrow compass and can be narrated as follows: The seniority position of the applicant in the seniority list of 1983 of Chargemen (Annexure A-3), grade Rs.425-700/- as on 1.7.81 was at Serial No.28. Without any notice to him, this seniority was downgraded in the seniority list issued on 3.6.1985 (Annexure A-1). In that list his position was at Serial No.33 whereas, those who were at Serial No.19, 23, 20 and 32 who had been shown as junior to him in the seniority list of 1983, were shown as senior to the applicant. Because of this change in seniority, the applicant's contention is that he lost his further promotion to the grade of Rs.700-900/- even though he qualified in the written test and viva voce. The applicant's representation dated 13.7.1987 at Annexure-A-2, remained unresponded till today.

2. In spite of a number of opportunities given to the respondents no counter affidavit has been filed and the right to file the counter affidavit was forfeited.

3. We have heard the learned counsel for the applicant. The learned counsel for the respondents was not present, even though, this was duly listed in the cause list for final hearing today. In the circumstances, we have gone

through the documents on the file and find that there is nothing to show that the applicant was given any notice before his seniority was downgraded. There is catena of cases in which this Tribunal has been holding the view that modification of the seniority list adverse to an official without giving him a notice will be violation of the rules of natural justice. In the facts and circumstances, we allow this application to the extent of directing ^{the applicant and} the respondents as follows: -

- a) The applicant shall, if so advised, file a supplementary representation supplementing his original representation dated 13.7.1987 at Annexure A-2, within a period of two weeks from the date of communication of this order.
- b) The respondents within a period of 10 weeks from the date of communication of this order shall dispose of in accordance with law the representation dated 13.7.87 and the supplementary representation, if any, filed within the period specified as above, after giving notice to those who are likely to be affected by the acceptance of the representation.
- (c) Any promotion made henceforth on the basis of the impugned seniority list will be subject to the outcome of the representation as above and the promotees should be informed specifically about it.
- (d) The respondents shall extend to the applicant all consequential benefits including consideration for promotion to the next higher grade in accordance with law on the basis of the outcome of his representation.
- (e) The applicant will be at liberty, if so advised, to approach appropriate forum in accordance with law, if he feels aggrieved by the decision taken by the respondents on his representation. There shall be no order as to costs.