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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

Regn.No. OA-241/86

Date of decision: 9.2.1993.

Shri R.K. Chaturvedi
and Others

.... Applicants

Versus

Chief Administrative
Officer, Ministry of
Defence & Others.

.... Respondents

For the Applicants

.... Shri G.D. Gupta, Advocate

For the Respondents

.... Smt. Raj Kumari Chopra, Advocate

*Shri R.P. Oberoi Advocate for
Resp. No 3 & 4. Or*

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice-Chairman(J).

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. To be referred to the Reporters or not? *yes*

JUDGEMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

We have gone through the records of the case and have heard the learned counsel for both the parties. The applicants are working as Technical Assistants in the Joint Cipher Bureau under the Ministry of Defence. The reliefs sought in the present application are the following:-

- (i) Mrs. R. George, now Senior Technical Assistant, should be reverted to the post of Hollerith Supervisor till she becomes eligible to hold

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the post of Technical Assistant under the Recruitment Rules existing at the time of redesignation of the post of Hollerith Supervisor as Technical Assistant and seniority list dated 10.4.1981 should be amended accordingly;

- (ii) Shri Megh Raj should also be reverted to the post of Hollerith Supervisor till such time as he becomes eligible to hold the post of Technical Assistant under the rules existing at the time of redesignation of the post of Hollerith Supervisor to the post of Technical Assistant.

2. There were several posts in the Joint Cipher Bureau under the Ministry of Defence, including Technical Assistant and Hollerith Supervisor. On the basis of the recommendations of a High Level Committee set up for rationalisation of grades in the Joint Cipher Bureau, the respondents decided to reduce the number of grades by merger of certain grades having functional similarities. Accordingly, they issued an order on 3.8.1979 on the redesignation of the various posts. According to the

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said order, the post of Hollerith Supervisor in the scale of pay of Rs.425-800 was redesignated as 'Technical Assistant' in the same scale of pay.

Various other posts also were similarly redesignated. It was stipulated in the order that the redesignation will take effect from the date of the publication of the recruitment rules for these posts in the official Gazette and no retrospective effect would be given.

3. Prior to the redesignation of the post of Hollerith Supervisor as Technical Assistant by the aforesaid order, the posts of Hollerith Supervisor and Technical Assistant were governed by separate sets of rules. Prior to 1.1.1973, the respective pay-scales of the posts were as under:-

Hollerith Supervisor	Rs. 210-530
Technical Assistant	Rs. 200-530.

4. With effect from 1.1.1973, both the posts were given identical pay-scales of Rs.425-800.

5. Under the Recruitment Rules for the post of Technical Assistant (General Duty) framed in 1966, 10 per cent of the posts were to be filled up by departmental promotion/transfer, failing which, by direct recruitment and 90 per cent by direct recruitment.

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Hollerith Supervisors were eligible for appointment as Technical Assistants by transfer.

6. Under the Recruitment Rules of 1969, Hollerith Supervisors were eligible for promotion as Technical Assistants provided they possessed a degree in any discipline from a recognised university. Under the Recruitment Rules of 1977, the requirement of a degree was done away with. However, all the eligible candidates were required to qualify in a written departmental test.

7. After the redesignation of the post of Hollerith Supervisor as Technical Assistant, the recruitment rules were amended in 1980 in which there is no mention of Hollerith Supervisor. The recruitment rules of 1980 specifically stipulate that the Rules will come into force from the date of publication in the Gazette. The applicants have not challenged the validity of the redesignation of the post of Hollerith Supervisor as Technical Assistant or the validity of the recruitment rules of 1980. Their contention is that prior to the amendment of the Rules in 1980, the post of Hollerith Supervisor was a Class III post and was a feeder post for promotion to the post of Technical Assistant, that

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it was a lower post compared to Technical Assistant, which is a Class II (non-Gazetted) post, and that by the redesignation made by the respondents, Hollerith Supervisors cannot be treated on par with Technical Assistants from a date anterior to the recruitment rules of 1980 and that they should not be given weightage for the service rendered by them as Hollerith Supervisors upto the date of their redesignation as Technical Assistant.

8. As against the above, the respondents have contended that according to the Ministry of Defence O.M. dated 29.6.1973, "Whereas a person is transferred with work from one department to another of Central Government, his date of seniority will remain unchanged".

9. There were only two Hollerith Supervisors in the office of the respondents, namely, Smt. Rajamma George (Respondent No.3) and Shri Megh Raj (Respondent No.4). They were holding the posts w.e.f. 20.6.1964 and 24.4.1970 respectively. The bone of contention is whether they are entitled to reckon their seniority from these dates, or from the date of redesignation of

the post of Hollerith Supervisor as Technical Assistant by the Recruitment Rules which were notified on 25.10.1980. In the seniority list of Technical Assistants issued by the respondents on 10.4.1981, respondent Nos.3 and 4 were given the seniority w.e.f. 1.4.1967 and 24.4.1970, respectively, after giving credit to their service in the post of Hollerith Supervisor. The applicant No.1 submitted a representation against the above fixation of seniority. This was examined by the respondents in consultation with the Department of Personnel & Administrative Reforms, who advised that the erstwhile Hollerith Supervisors could not be rendered senior to Technical Assistants, who were holding this post on the date of redesignation. A revised seniority list was issued on 28.4.1984 wherein the erstwhile Hollerith Supervisors were shown junior to those who were already working as Technical Assistants on 25.10.1980. Thereafter, Respondent No.3 challenged his relegation in the seniority. Her representation was examined in consultation with the Department of Personnel & A.R. and the Ministry of Law. It was decided that the fixation of inter se seniority in a grade wherein posts carrying same pay-scales are merged together, is to be determined on the basis of normal rule of length of service in the respective grades. Accordingly, the respondents issued the revised seniority list of Technical Assistants in 1985 in

which respondent Nos. 3 and 4 have been shown as senior to the Applicants. While respondents 3 and 4 were appointed on 20.6.1964 and 24.4.1970, respectively as Hollerith Supervisors, applicant No.1 was appointed as Technical Assistant on 19.8.1969. In the impugned seniority list, the seniority has been fixed by taking into account dates of appointment and confirmation of the officers. Applicant No.1 was confirmed on 25.1.1973 while Respondent Nos.3 and 4 were confirmed on 1.4.1967 and 24.4.1970 respectively.

10. It is true that respondent Nos.3 and 4 have not worked as Technical Assistants from 20.6.1964 and 24.4.1970, respectively. Till the recruitment rules were amended in 1980, they continued to hold the posts of Hollerith Supervisor. However, the scale of pay of the post of Hollerith Supervisor and that of the Technical Assistant was the same. The posts of Hollerith Supervisor no longer exist. Respondent No.3 had also been promoted to the next higher grade of Senior Technical Assistant by the time the present application came to be filed.

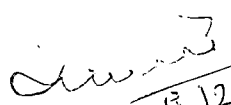
11. The recruitment rules did not specifically provide as to how the seniority should be determined. In a case of this kind, in the absence of any stipulation in the Recruitment Rules, we are of the opinion that the adoption of the length of service and date of confirmation as the criterion, cannot be called in question on legal or constitutional grounds. The redesignation of the post of Hollerith Supervisor as Technical Assistant, in fact, virtually amounted to the merger of the two categories of

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posts and the only rational criterion for fixing the inter se seniority would be on the basis of continuous length of service of the persons belonging to both the categories who were having identical pay-scales. In our opinion, any other view of the matter will be unfair and inequitable in the peculiar facts and circumstances of the case.

12. In the light of the above, we do not consider it necessary to go into the various ^{other} contentions advanced by both the parties. We see no merit in the present application and the same is dismissed. There will be no order as to costs.

S. N. Dhoundiyal
(B.N. Dhoundiyal)
Administrative Member


9/2/93
(P.K. Kartha)
Vice-Chairman(Judl.)