

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 264/86                      198  
T.A. No.

DATE OF DECISION 31.12.1986

Shri B.R.K. Rao,                      Petitioner

Shri R.P. Oberoi,                      Advocate for the Petitioner(s)

Versus

Union of India & Others                      Respondent

Smt. Raj Kumari Chopra,                      Advocate for the Respondent(s)

**CORAM :**

The Hon'ble Mr. S.P. Mukerji, Administrative Member

The Hon'ble Mr. H.P. Bagchi, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*

**JUDGEMENT**

Shri B.R.K. Rao, the petitioner who is a retired Assistant from the Office of the Director General, Defence Lands and Cantonments, Ministry of Defence, has moved this application

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under Section 19 of the Administrative Tribunals Act on 14th April, 1984 praying that on the basis of his position at Sl. No.91 in the panel for officiating promotion to the post of Assistant Civilian Staff Officer, he should be considered for promotion to the aforesaid grade with all consequential pay and retirement benefits.

2. The brief facts of the case are as follows. The petitioner, who retired from service on 31.3.1986 on superannuation while working as an Assistant, was included in the panel in September, 1984 at Sl.No.91 for promotion to the next higher grade of Assistant Civilian Officer. The seniority list on the basis of which the panel was prepared was struck down by the Supreme Court and a fresh seniority list was drawn up. The Supreme Court had directed that all promotions made on the basis of the old seniority list, were to be subjected to the fresh seniority list. A fresh seniority list was published by the respondents in January, 1986 in which the name of the petitioner was improved from Sl.No.141 to Sl.No.86. In the rejoinder affidavit, the petitioner stated that in the revised seniority list he was shown at Sl.No.87 and in the revised Select List or panel, he has been shown at Sl.No.59. This panel was in supersession of the earlier panel published on 5.10.1984 in which petitioner's name had appeared at Sl.No.91 on the basis of his old seniority. He has further stated that 63 persons had been promoted on the basis of the earlier Select List before 25th April, 1985. He has argued that had his seniority

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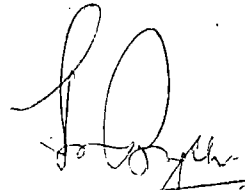
been correctly fixed in 1984, he would have got <sup>the</sup> vacancy No.59 and promoted with effect from 2nd April, 1985 before his retirement on 31.3.1986. Accordingly, he has claimed benefits of higher pay and higher pension on the basis of his notional promotion as Assistant Civilian Staff Officer with effect from 2.4.1985. The respondents have, more or less, accepted the factual position indicated above but stated that under the orders of the Tribunal, dated 28.1.1986 in O.A.No.41/86, status quo is being maintained. They have admitted that 63 Assistants had been promoted to the grade of ACSO before 25.4.1985, i.e., the date of Supreme Court judgement and the seniority list of August, 1984 was declared illegal and invalid. No promotion could be made on the basis of the revised seniority list because of the stay order on 28.1.1986.

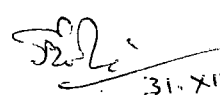
3. The petitioner has stated in the rejoinder that the litigation before the Supreme Court and the Tribunal has come to a close and a fresh Select List was prepared and published on 12.9.1986. Accordingly, the prayer of the petitioner should be granted.

4. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The learned counsel for the respondents stated during the course of arguments that the stay orders issued by the Tribunal do not subsist now and there is no other constraint in the preparation of the seniority list in accordance with the directions of the Supreme Court. He stated that

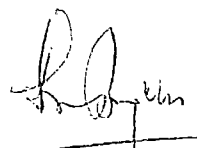
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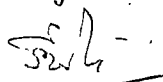
not only the revised select list has been prepared but a fresh panel based on the revised seniority list has been drawn up in which the petitioner figures at Sl.No.59. The learned counsel for the respondents further stated that the petitioner will get all the consequential benefits on the basis of his position in their revised panel. This is what it should be and the question of the petitioner's retirement should not stand in the way of his legitimate dues which accrued or would have accrued to him before his retirement. Accordingly, we allow the petition with the direction that the petitioner should be promoted as Assistant Civilian Staff Officer on the basis of his position in the revised panel with retrospective effect from the date the vacancy falling in his turn in the panel was filled up on the basis of the Select List of 1984. The petitioner should get all consequential benefits, including arrears of pay and allowances and enhancements <sup>of</sup> ~~and~~ pensions in accordance with the relevant service rules. There will be no order as to costs.

  
(H.P. Bagchi) 31.11.86  
Judicial Member

  
(S.P. Mukerji) 31.11.86  
Administrative Member

29.1.87. The date mentioned in line 2 page 2 of the judgment has been found again and the same i.e. 14th April, 1984 should be read as 18th April 1986. All concerned be informed.

  
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