

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No.      O.A. 584/ 1986  
T.A. No.

DATE OF DECISION 23.7.1987.

Shri Rayi Kumar Sahota & Others Petitioner / Applicants.

Shri G. R. Matta \_\_\_\_\_ Advocate for the Petitioner(s)

Versus

The Chief Secretary, Delhi Admn., Respondent  
Delhi.

Shri P. P. Rao, Senior Advocate Advocate for the Respondent(s)  
with Shri S. K. Mehta

**CORAM :**

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Member (A).

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
4. Whether to be circulated to other Benches ? No

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(KAUSHAL KUMAR)  
MEMBER (A)  
23.7.1987.

Reddy

(K. MADHAVA REDDY)  
CHAIRMAN  
23.7.1987.

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 584/1986.

DATE OF DECISION: 23.7.1987.

Shri Ravi Kumar Sahota and  
Others

.... Applicants.

V/s.

The Chief Secretary, Delhi  
Administration, Delhi.

.... Respondents.

CORAM: Hon'ble Mr. Justice K. Madhava Reddy, Chairman.  
Hon'ble Mr. Kaushal Kumar, Member (A).

For the applicants

.... Shri G.R. Matta,  
Advocate.

For the respondents

.... Shri P.P. Rao, Senior  
Advocate with Shri S.K.  
Mehta, Advocate.

(Judgment of the Bench delivered by  
Hon'ble Mr. Kaushal Kumar, Member)

JUDGMENT

The applicants are direct recruits to Grade-II (Ministerial) of the Delhi Administration Subordinate Service and were appointed to the said Service on various dates from 1st July, 1974 to 15th April, 1975 on the basis of results of a competitive examination held in September, 1973. The applicants were appointed against vacancies reserved for members of the Scheduled Caste. On the basis of their seniority and on the recommendation of the Departmental Promotion Committee, three of the applicants at Sl. No. 1, 2 and 3 were promoted to Grade I (Ministerial) of the Service vide Order dated 13th October, 1983, issued by the Delhi Administration (Annexure A-IV to the application) and the applicant at Sl. No.4 was promoted to Grade-I (Ministerial) vide Order dated 3rd November, 1983 (Annexure A-V to the application). These promotions were subject to the orders of the competent authority, if any, revising the inter-se seniority of the personnel in the feeder grade and also subject to the final decision in certain Court cases. Consequent upon

*M. Mehta*

the amendment of Rule 26, vide Notification No.F.2(2)/81-JSC/S.II, dated the 12th July, 1985 and issue of a final seniority list of Grade-II (Ministerial) on 6.1.1986, the applicants herein were reverted to the lower grade by Order dated 30th July, 1986 (Annexure A-VI to the application). The reversion of the applicants was stayed by our interim direction given on 4th August, 1986.

2. In this application, the following reliefs have been prayed for: -

- (1) To quash and set aside the final seniority list of Grade-II (Ministerial) circulated on 6.1.1986.
- (2) To quash and set aside the order reverting the applicants from the post of Grade-I (Ministerial) to Grade-II (Ministerial) vide Order dated 30.7.1986.
- (3) To quash and set aside Rule 26 as amended by Notification dated 12.7.1985 in so far as it affects the existing vested rights and privileges of service of the applicants.
- (4) To declare and set aside Rule 26 as ultra-vires.
- (5) To direct the respondent to prepare a correct seniority list of Grade-II (Ministerial) in accordance with the provisions of Delhi Administration (Seniority) Rules, 1965.
- (6) To direct the respondent to appoint the applicants substantively against the permanent posts reserved for members of the Scheduled Castes with effect from the date the permanent reserved posts became available.

3. The issues involved and the reliefs prayed for in this application are the subject matter of our judgment in O.A. 561/1986 (Shri O.B.L. Bhatnagar and others v. Delhi Administration and others) and O.A. 67/1986 (Shri V.K. Seth and others

*A. Mehta*

v. Delhi Administration and others) and the order in those cases will cover this case as well. We, however, briefly touch upon a few points raised by Shri G.R. Matta, learned counsel for the applicants in this case. It was urged by Shri Matta that the quota rule in so far as the direct recruitment is concerned, did not break down till 1978 and, therefore, seniority according to the rota rule has to be given till that year. This position is belied by the following statement regarding yearwise recruitment to Grade-II (Ministerial) between 1968 and 1980:

<u>Year</u>	<u>Total No. of posts</u>	<u>Promoted</u>	<u>Test Promoted</u>	<u>Direct</u>
1968	57	57	-	-
1969	58	40	-	18
1970	65	47	-	18
1971	29	29	-	-
1972	39	39	-	-
1973	300	217	-	83
1974				
Direct out of Test held in 1973.	1975	202	189	-
	1976	13	-	13
	1977	101	-	101
	1978	70	-	70
	1979	35	6	-
	1980	91	60	-

4. The quota rule having broken down not only with reference to the two sets of promotees, but also direct recruits, as held by us in the other two applications O.A. 561/1986 and O.A. 67/1986, seniority has to be determined on the principle of continuous officiation and length of service. The seniority list which was issued by the Delhi Administration on 8th May, 1978 on whose basis the applicants were promoted to Grade-I

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In  
Hand*

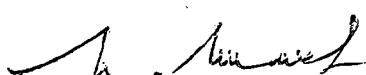
- 4 -

(Ministerial) also does not survive for reasons given in the other judgment, referred to above.

5. In view of the discussion in O.A. 561/1986 and O.A. 67/1986, the same directions as in those cases and the following additional direction shall issue in this case: -

The applicants who have already been holding the Grade-I (Ministerial) post for a number of years shall not be reverted to Grade-II of the Service. They will be adjusted either against the existing or future vacancies and, if necessary, supernumerary posts may be created to accommodate them.

6. There shall be no order as to costs.



(KAUSHAL KUMAR)  
MEMBER (A)  
23.7.1987.



(K. MADHAVA REDDY)  
CHAIRMAN.  
23.7.1987.

(15)

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
DELHI.**

**REGN. NO. OA 584/26/ OA 589/86, OA 55/86 and OA 275/86.**

29.10.1987.

In view of orders made in MP No.1122/87 in OA 561/86, notice suo moto to issue to counsel for the applicants and other respondents returnable on 19.11.1987. On behalf of respondents 1,3 and 4 Shri P.P.Rao, Sr. Advocate with S/Shri S.M.Garg and R.Venkathamani, takes notice.

Call on 19.11.1987.

*K. Kumar*  
(Kaushal Kumar)  
Member  
29.10.1987.

*K. Madhava Reddy*  
(K. Madhava Reddy)  
Chairman  
29.10.1987.

OA Nos. 55/86, 584/86, 589/86 & OA 275/87

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19.11.87

Fresh notices to the counsel for the applicants, if not served as directed on 29.10.87.

Call on 11.12.1987 along with OA 561/86 and OA 67/86.

*K. Kumar*  
(Kaushal Kumar)  
Member

*Reddy*  
(K. Madhava Reddy)  
Chairman

11-12-87

Call on 29-12-87

*B.O.*  
*J. E. J.*

*(Gowndappa)*  
Court Officer

11-12-87