

9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No.      O.A. 589/      1986.  
T.A. No.

DATE OF DECISION 23-7-1987.

Smt. Swatantra & Others      Petitioner/Applicants.

Shri K.R. Nagaraja      Advocate for the Petitioner(s)

Versus

Delhi Administration, Delhi      Respondents  
& Others


Shri P.P. Rao, Senior      Advocate for the Respondent(s)  
Advocate 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

  
(KAUSHAL KUMAR)  
MEMBER (A)  
23.7.1987.

  
(K. MADHAVA REDDY)  
CHAIRMAN.  
23.7.87.

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 589/1986.

DATE OF DECISION: 23.7.1987.

Smt. Swatantra and Others .... Applicants.

V/s.

Delhi Administration, Delhi  
and Others ..... Respondents.

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

For the applicants ..... Shri K.R. Nagaraja,  
Counsel.

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 in this case are direct recruits to Grade-II (Ministerial) of the Delhi Administration Subordinate Service on the basis of an open Competitive Examination held in the year 1973. They were promoted to Grade-I (Ministerial) vide orders issued on 30th September, 1981 (Annexure 'G' to the application) and 2nd January, 1982 (Annexure 'H' to the application). These promotions were made on a purely emergent and ad-hoc basis subject to the following conditions: -

"2. The above officials will not be entitled to any benefit for purpose of seniority and will have no claim for regular appointment to this or any other equivalent post on the basis of this order. These ad-hoc promotions will not confer any right on the incumbents unless their cases are reviewed by Departmental Promotion Committee.


"3. The above promotions are further subject to the final decisions in the Civil petition

*K. Kaushal*

No. 717/74 in case of Shri O.P. Jacob and others V/s. L.G. Delhi and others and in C.M.P. No. 1219/78 and CWP No. 1314/77 in the case of H.S. Rekhi V/s. Delhi Admn. & 1345/80 in the case of Shri G.R. Gupta and others V/s. U.O.I. and others and 1354/80 in the case of Shri H.L. Suri and others V/s. U.O.I. and others and other writ petitions pending in the High Court of Delhi."

2. The applicants were sought to be reverted to Grade-II, vide Order dated 30th July, 1986. The operation of the said order was stayed by us on 5th August, 1986.

3. The following reliefs have been claimed by the applicants: -

- (a) to declare that any subsequent change in the seniority position of the petitioners in Grade-II Ministerial Services shall not effect the promotions of the petitioners already made;
  - (b) to declare that the inclusion of ad-hoc service as a part of regular service under amendment Rules 1985 is illegal, unjustified and arbitrary;
  - (c) to quash the seniority list dated 6.1.1986 passed on the above amendment to the Rules as illegal, arbitrary and unjustifiable; and
  - (d) to restrain the respondents from reverting the petitioners on the ground that they have been subsequently found junior in the impugned seniority list;
  - (e) and alternatively direct the respondents to exercise their power to relax under Rule 32 to exempt the petitioners from the rigours of the Rule in view of the special and peculiar circumstances of the case.
- 

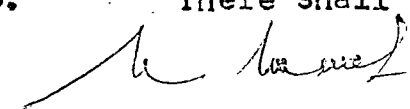
(f) to direct the respondents to regularise the service of the petitioners with effect from the date of their initial appointment in Grade-I service.

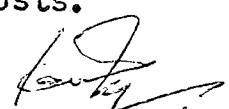
4. As held by us in the other two applications O.A. 561/1986 (Shri O.B.L. Bhatnagar and others v. Delhi Administration and others) and O.A. 67/1986 (Shri V.K. Seth and others v. Delhi Administration), the quota rule having broken down not only with reference to the two sets of promotees but also direct recruits, 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 (Ministerial) no longer survives.

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

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.

(3)

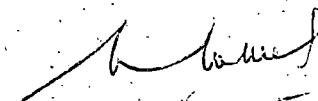
CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
DELHI.


REGN. NO. OA 584/86/ 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.Venkatramani, takes notice.

Call on 19.11.1987.

  
(Kaushal Kumar)  
Member  
29.10.1987.

  
(K. Madhava Reddy)  
Chairman  
29.10.1987.

147  
CA Nos. 55/86, 584/86, 589/86 & CA 275/87

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 ~~ME~~ 561/86 and CA 67/86.

( Kaushal Kumar )  
Member

( K. Madhava Reddy )  
Chairman

11-12-87

Call on 21-12-87.

B.O.

(Goverdhan Ballabh)

Court Officer

11-12-87