

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 887
T.A. No.

198. 6.

DATE OF DECISION November 18, 1987.

Shri Jaswant Singh IV

Petitioner

In person.

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Mrs. Raj Kumari Chopra,

Advocate for the Respondent(s)

CORAM :

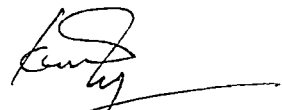
The Hon'ble Mr. Justice K. Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Member.

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



(Kaushal Kumar)
Member
18.11.1987.



(K. Madhava Reddy)
Chairman
18.11.1987.

8

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

REGN. NO. OA 887/1986

November 18, 1987.

Shri Jaswant Singh IV ... Applicant.

Vs.

Union of India ... Respondent.

CORAM:

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

Hon'ble Mr. Kaushal Kumar, Member.

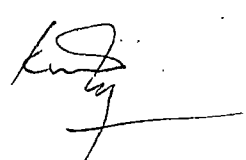
For the applicant ... Applicant in person.

For the respondent ... Mrs. Raj Kumari Chopra,
counsel.

(Judgment of the Bench delivered by Hon'ble
Mr. Justice K. Madhava Reddy, Chairman).

The applicant joined the Central Government service under the Ministry of Defence at Artillery Depot and Records Mathura as L.D.C. with effect from 4.4.1957. He was promoted as U.D.C. with effect from 8.6.1965 and later to the grade of Assistant. In this application under Section 19 of the Administrative Tribunals Act, he claims that his seniority in the Assistant's grade should be restored with effect from 30.4.1979 with all consequential benefits and that he may be promoted to the rank of ACSO with effect from 12.9.1986 when his junior Shri Ramesh Chandra was promoted.

Even during the pendency of this application, his grievance has been redressed to a certain extent



by promoting him to the grade of Assistant with effect from 4.6.1979 and placing him immediately below Shri Boota Ram Baweja and above Shri Dwarka Nath Kohli.


The applicant claims that he was senior to Shri Ramesh Chandra and should be placed immediately above him. Orders of promotion were issued in respect of S/Shri Ramesh Chandra, Boota Ram Baweja and Dwarka Nath Kohli and some others promoting them as Assistants with effect from 30.4.1979. He claims that admittedly Shri Ramesh Chandra was junior to him in the grade of UDC and, therefore, he should have been promoted at least on the day when Shri Ramesh Chandra was promoted.

That Shri Ramesh Chandra was junior to the applicant in the cadre of UDCs is not disputed by the respondents. In the list of temporary UDCs published on 28.5.1974, the applicant is shown at Sl.No.165 while Shri Ramesh Chandra is shown at Sl.No.173.

Even in the final seniority list of UDCs, the applicant is shown as senior to Shri Ramesh Chandra. It is also not disputed that the post of Assistant is a non-selection post and the promotion to that post is on the basis of seniority-cum-fitness. The only justification given by the respondents for not promoting the applicant with effect from 30.4.1979 as stated in para^s 6.5. and 6.6. of their reply is that the

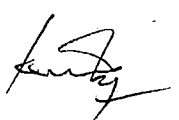
Handwritten signature

applicant was granted exemption from passing the prescribed typewriting test w.e.f. 1.2.1968. He was confirmed as LDC w.e.f. 1.4.1961 the date from which he was due for confirmation in the grade and was assigned notional seniority above Shri Dwarka Nath Kohli and below Shri Boota Ram Baweja. That does not answer the claim of the applicant that he being admittedly senior to Shri Ramesh Chandra both in LDC and UDC cadres should have been promoted at least along with Shri Ramesh Chandra. Any delay in granting exemption from passing the test or ~~xx~~ confirmation in the cadre of LDC does not and in fact did not affect his seniority. Therefore, that could not be a valid ground for not promoting him as Assistant when he became due along with Shri Ramesh Chandra on 30.4.1979. In any event, when several years before 30.4.1979, exemption was granted and given effect to, that could not possibly stand in the way of the applicant being promoted to the Assistant's grade, when the respondents themselves recognised him as senior to Shri Ramesh Chandra in U.D.C. grade. What, however, seems to have been attempted by the respondents is to place him below Shri Boota Ram Baweja who was admittedly senior to the applicant. But that ignores the fact that while orders promoting S/Shri Ramesh Chandra, Boota Ram Baweja and Dawarka Nath Kohli as Assistants




were issued on 30.4.1979, while Shri Ramesh Chandra joined on the same day, S/Shri Boota Ram Baweja and Dawarka Nath Kohli for some reason or the other did not join and joined only on 4.6.1979.

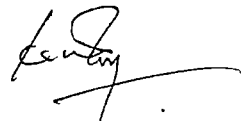
In view of the judgment of the Supreme Court dated 17.2.1987 in Special Leave Petition No.3513-14 of 1986- Shri K.N.Mishra & Others Vs. Union of India & Others and in confirmation of the judgment of the Central Administrative Tribunal dated 22.12.1986 in OA No.73 of 1986- R.A.Devasahayam Vs. Union of India and OA No.61 of 1986 - A.J. Ilango Vs. Union of India, seniority of these officers was fixed with reference to the date of actual joining. Although Shri Ramesh Chandra was junior to S/Shri Boota Ram Baweja and Dawarka Nath Kohli and he had joined immediately on 30.4.1979, he was placed as their senior. In our view, merely because Shri Ramesh Chandra who was junior to both S/Shri Boota Ram Baweja and Dawarka Nath Kohli was given seniority over them for the reason that he had joined earlier, the applicant, in whose case the respondents failed to issue the promotion orders which they ought to have issued, cannot be denied seniority. If orders promoting him were issued and he failed to join, he could also have been met the same treatment as S/Shri Boota Ram Baweja and Dawarka Nath Kohli. Only because they did not actually



issue the order, the applicant could not join.

The respondents themselves had given him notional
and revised it to 4.6.1979.
seniority w.e.f. 10.9.1981/ If notional seniority
has to be given, it should have been given with effect
from the date when Shri Ramesh Chandra who was admittedly
junior to the applicant was promoted, and he should
have been placed immediately above Shri Ramesh Chandra
in the seniority list and paid all consequential
benefits of pay and allowances and further promotion,
if any. We, therefore, direct accordingly. The
application is allowed as indicated above with no
order as to costs.


(Kaushal Kumar)
Member
18.11.1987.


(K. Madhava Reddy)
Chairman
18.11.1987.