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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

REGN. NO. O.A. 744/87.

DATE OF DECISION: 24.9.1992.

M.L. Sard & Ors.

... Petitioners.

Versus

Chief Election Commissioner
of India & Ors.

... Respondents.

CORAM: THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioners.

... Shri Umesh Misra,
Counsel.

For the Respondents.

... Shri P.H. Ramchandani,
Sr. Counsel.

JUDGEMENT (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath,
Chairman)


The petitioners in this case have prayed for quashing of the seniority list produced by them as Annexure 'A' and for a direction to prepare the seniority list by giving seniority to the petitioners from the date of their officiation in the post of Assistant Grade Rs.425-800, to set aside the selection of Respondents 4 to 9 to the post of Section Officer in the grade of Rs.650/710-1200 with retrospective effect and for consequential benefits.

2. So far as the seniority list produced by the petitioners is concerned, it does not appear to be authentic list. The

preamble of the said list is also not produced. Shri P.H. Ramchandani, learned counsel for the contesting respondents placed the relevant record before us from which it appears that a draft seniority list was circulated in October, 1987 inviting objections within one week. This original application was filed before the Tribunal in May, 1987 long before the draft list was published. It is, therefore, obvious that what has been challenged by the petitioners is a non-existent list. So far as the seniority list dated 6.5.1987 is concerned, it is only a draft seniority list. We cannot construe the petitioners as challenging the said draft list. As such, we will not be in a position to grant any relief for the simple reason that it is only a draft list. It is on this short ground that the first relief has to be rejected. Even on merits, we find that the petitioners have no case in regard to the fixation of their seniority vis-a-vis respondents 4 to 9 which stood settled long back. There was a seniority list which was circulated in June, 1972. That seniority list was challenged in the High Court in Civil Writ Petition No.275 of 1975. Two of the petitioners herein were respondents in the case before the High Court. That petition was dismissed in July, 1976. In an appeal against the said decision LPA No. 107 of 1976 was also dismissed by a Division Bench on 31.3.1980. As a result of the said decision, the seniority assigned to the Assistants by the Election Commission w.e.f

15.12.1962 was up-held. There were some amendments to the recruitment rules thereafter in the light of the subsequent events. The seniority list was again circulated in May, 1980. In the seniority list, all the petitioners are placed below the respondents 4 to 9. No objection was raised to the said seniority list. That seniority list became final. It is on the basis of the settled seniority that steps were taken for filling up the posts of Section Officers which are selection posts. As steps were taken on the basis of the settled seniority list, the selection of the contesting respondents as Section Officers cannot also be assailed merely because a draft list was under contemplation which obviously became necessary to upgrade the seniority list already made having regard to the subsequent events. The petitioners cannot seek interference with the seniority ~~list~~ which has become settled at any rate in the year 1980. The claim of the petitioners is highly belated as the cause of action arose long prior to the coming into force of the Central Administrative Tribunal. This petition is barred by Section 21 of the Act. As already stated, as the appointment of Section Officers was based on settled seniority which has become final and conclusive, the same is not liable for interference.

3. For the reasons stated above, this petition fails and is accordingly dismissed. No costs.


(I.K. RASGOTRA)
MEMBER(A)


(V.S. MALIMATH)
CHAIRMAN