

Central Administrative Tribunal  
Principal Bench

New Delhi, dated this the 6 July, 2000

O.A. No. 818 of 1987

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE MR. KULDIP SINGH, MEMBER (J)

S/Shri

1. R.M. Balani  
S/o Shri M.P. Balani,  
123, Gulmohar Enclave,  
SFS DDA Flats,  
Yusuf Sarai, New Delhi.
2. S.K. Palhan,  
S/o Shri S. Palhan,  
51, Munirka Vihar,  
Opp. JNU Staff Quarters,  
New Delhi.
3. Vinay Kumar,  
S/o late Shri V.P. Gupta
4. G.L. Keshwani  
S/o Shri L.R. Keshwani
5. T. Ramasubramanian,  
S/o Shri P. Thiruvadi
6. S.K. Bhatia,  
S/o Shri N.L. Bhatia
7. M.K. Banerjee,  
S/o Shri S.N. Banerjee
8. C.M.P. Sinha,  
S/o Shri D.P. Sinha
9. Sushil Kumar,  
S/o late Shri V.P. Gupta
10. S.S. Khosla,  
S/o Shri B.S. Khosla
11. V.K. Jain  
S/o Shri D. C. Jain
12. S.K. Barij,  
S/o Shri Jagan Nath Barij
13. V. Seshadri,  
S/o late Sh. P.G. Venkateshwaran .. Applicants

(By Advocate: Shri K.S. Bhatti,  
Counsel for applicant No.9  
Applicants No.5 & 8 in person  
None for other applicants)

Versus

Secretary (TD) and  
Director General (TD)  
DGTD, Udyog Bhawan,  
New Delhi. and Others

.. Respondents

(Shri VSR Krishna, counsel  
for official respondents  
Shri Yogeshwar Prasad, Sr. Counsel  
with Ms. Rachna Gupta,  
counsel for R-9  
Shri M.L. Ohri,  
Counsel for R-3,6 & 7  
None for other Respondents)

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ORDER

MR. S.R. ADIGE, VC (A)

In O.A. No. 818/87 applicants Shri R.M. Balani and 12 others who were appointed as Assistant Development Officers in the D.G.T.D. and were subsequently promoted had claimed that the continuous period of ad hoc service as Development Officers rendered by them should be treated as regular service and counted as such towards their seniority.

2. The aforesaid O.A. No. 818/87 along with O.A. No. 1047/87 N.G. Basak and two others Vs. Secretary (TD) & D.G. (TD) and another; O.A. No. 1070/87 I.K. Kapur and 11 others Vs. Secretary (TD) & D.G. (TD) and another and O.A. No. 1390/88 S.V. Bopardikar Vs. Secretary (TD) & D.G. was disposed of by a common order dated 31.10.90. By the aforesaid order, the O.A. was allowed and it was held that applicants were entitled to count their period of ad hoc service as Development Officers towards seniority. Respondents were also directed either to correct the seniority list of 1984 or to draw a fresh seniority list in the light of the judgment. Applicants were held to be entitled to consequential benefits.

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3. Thereupon Shri Laxman Mishra and four others filed SLP No. 2623/91 in the Hon'ble Supreme Court against the Tribunal's order dated 31.10.90 in O.A. No. 818/87. An ex-parte stay order was also moved by them.

4. In the aforesaid SLP besides the Secretary (TD) & D.G. (TD) (Respondent No.1) and the Union of India, Ministry of Industries (Respondent No.2) Shri Balani and 12 others who were applicants in O.A. No. 818/87 were impleaded as <sup>private</sup> Respondents.

5. That SLP came up before Hon'ble Supreme Court on 8.3.91 on which date special leave was granted and a limited stay order was passed to the extent that there would be no reversion. The aforesaid SLP was converted into Civil Appeal No. 1035/91. After permitting a petitioner in an SLP No. 2345/92 to be added as party of respondents in O.A. No. 818/87 with the consent of the parties, the aforesaid Civil Appeal No. 1035/91 was disposed of by the Hon'ble Supreme Court by its order dated 16.9.99.

6. In that order dated 16.9.99 the Hon'ble Supreme Court <sup>re</sup> held that the Tribunal had overlooked the law laid down by it in their earlier decisions and had committed an error and, therefore, the impugned order dated 31.10.90 could not be sustained. The impugned order dated 31.10.90 was set aside and the matter was remanded back to the Tribunal to dispose of the O.A. in the light of the

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Hon'ble Supreme Court's earlier decisions and other relevant rules and regulations and dispose of the matter as expeditiously as possible within six months from the date of receipt of the order.

7. The stay order dated 8.3.91 was ordered to continue until disposal of the matter and Hon'ble Supreme Court expressed the hope that none of the parties would take unnecessary adjournments and prolong the matter particularly parties who had obtained the stay order from the Court. In this connection the submissions of the appellants and private respondents were also noted that if the concerned department of Central Government created three supernumerary posts in the cadre in question, the grievance of the parties would be redressed. Since the department in question was faded, the Hon'ble Supreme Court expressed hope that Central Government would consider the suggestion sympathetically but in accordance with law.

8. Upon receipt of O.A. No. 818/87 on remand back to the Tribunal, the same came up before this Bench on different dates.

9. In this connection out of the 13 ~~signed~~ applicants in the O.A. applicants S/Shri Vinay Kumar, T. Ramasubramanian, C.M.P. Sinha, Sushil Kumar, V.K. Jain and S.K. Bhaij have submitted applications seeking to withdraw from the O.A.

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S/Shri R.M.Balani, S.K.Palhan, S.L. Keshwani, S.K. Bhatia and S.S. Khosla have retired from service and we are informed that they are not interested in pursuing the O.A. We are further informed that the applications of Shri V. Seshadri for withdrawal is in transit. Applicant Shri M.K. Banerjee has also not appeared on successive dates.

11. Shri Bhatti has stated that these withdrawal applications have been filed under Order XXIII Rule 1 C.P.C. and prays that the same be allowed.

12. Shri V.S.R. Krishna appeared for official respondents stated that the official respondents had no objection to the application for withdrawal being allowed. He contended that in the light of the provisions of Order XXIII Rule 1 C.P.C., this Bench had no alternative but to permit the applicants to withdraw as they themselves were not interested in pressing this O.A. further. In this connection he also referred to Section 19 A.T. Act which allows only such person who is aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal to make an application to the Tribunal for the redressal of his grievance. He stated that as applicants sought to withdraw the O.A. it was clear that they were no longer aggrieved and under the circumstances this O.A. No. 818/87 could not be continued any further.

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13. On the other hand Shri Yogeshwar Prasad and Shri Ohri appeared on behalf of some of a private respondents contended that this was not a withdrawal simpliciter, and the permission to allow applicants to withdraw the O.A. at this stage would in effect mean that applicants had been permitted to enjoy the benefits flowing from the Tribunal's order dated 31.10.90, which had adversely affected the private respondents against which they had approached the Hon'ble Supreme Court and which order had been set aside by the Hon'ble Supreme Court. They, therefore, prayed that applicants should not be permitted to withdraw the O.A. and the same should be decided on merits. In case permission was allowed, it was prayed that official respondents be directed to restore the position which obtained prior to the Tribunal's order dated 31.10.90.

14. We have considered the matter carefully.

15. We agree with the submissions made by Shri V.S.R. Krishna, that when the applicants themselves are no longer interested in prosecuting this O.A. further and have prayed to be allowed to withdraw the O.A. this Bench after applying the provisions of Order XXIII Rule 1 C.P.C. this Bench has no option but to allow the prayer for withdrawal. In respect of those applicants who are not signatories to the withdrawal applications but who either because of retirement or other reasons are not appearing despite different dates, the O.A. has to

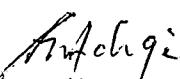
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be dismissed for non-prosecution. In case the private respondents are aggrieved by any action taken by respondents pursuant to the Tribunal's order dated 31.10.90 it will be open to them to challenge the same separately through appropriate original proceedings in accordance with law, if so advised.

16. Giving liberty to the private respondents in O.A. No. 818/87 as aforesaid, O.A. No. 818/87 is allowed to be withdrawn in respect of those who have prayed for withdrawal and is dismissed for default in respect of those applicants who have failed to appear before this Bench despite successive dates. No costs.

  
(Kuldip Singh)  
Member (J)

  
(S.R. Adige)  
Vice Chairman (A)

/GK/