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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN. NO. O.A. 1110/87.

DATE OF DECISION: 11.1.1993

A.C. Ray.

... Petitioner.

Versus

Union of India & Ors.

... Respondents.

CORAM: THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. S.R. ADIGE, MEMBER(A).

For the Petitioner.

... Shri H.L. Bajaj, Counsel.

For the Respondents.

... Shri J.C. Madan, proxy
for Shri P.H. Ram-
chandani, Sr. Counsel.

JUDGEMENT (ORAL)

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

This petition is by Shri A.C. Ray in which he has prayed for quashing of the seniority list which has been prepared on the basis of the quota and rota rule and for a direction to the respondents to prepare the seniority list of Section Officers Grade right from the beginning on the basis of continuous length of service as quota rule had broken down and on the principles laid down in the judgement of the Supreme Court and to review further promotions on that basis.

2. Though the counsel for the petitioner submitted that we should examine the claim of others similarly situate, it is not possible to examine the claim of others similarly situate for the reason that the petition has been filed only by Shri A.C. Ray and it is not a representative action. None of them has joined the petitioner nor have they authorised the petitioner on their behalf. Hence we must regard this petition as having been filed by Shri A.C. Ray claiming relief, as aforesaid, for himself.

3. The petitioner was promoted on ad hoc basis as Section Officer w.e.f. 31.3.1978. He continued to hold the position on an ad hoc basis until an order came to be made on 13.7.1983 in his favour by which his name was included in the list of the regularly selected Section Officers as from 1.7.1983. Thus it becomes clear that the petitioner came to be inducted as Section Officer on an ad hoc basis w.e.f. 31.3.1978. He became regularly inducted into that cadre w.e.f. 1980. In the very nature of things, the petitioner cannot call upon us to examine the validity of the action taken by the authorities on dates prior to the appointment of the petitioner on an ad hoc basis in the year 1978. The principal case of the petitioner is that this is a case in which the quota rule has failed and that, therefore, the petitioner should be accorded seniority with effect from the date on which he started functioning on ad hoc basis from 31.3.1978.

4. The respondents have placed material before us in support of their case that this is not a case in which the quota rule has failed. It is their case that the recruitment to the cadre of Section Officers has to be made from three different sources every year. It is further their case that such recruitments have been made and combined seniority lists have been prepared and notified from time to time.

✓ From the material placed before us, the select lists of Section

Officers for the years 1978, 1979 and 1980 were notified by orders dated 31.3.1983. The orders made in this behalf have been produced along with the reply as Annexures R-XI, R-XII and R-XIII. Each one of these orders state that they are notifying the select lists for Section Officers' Grade of Railway Board Secretariat Service, for the years 1978, 1979 and 1980. It is stated that the select list is made arranging the names in order of their seniority, in accordance with the modified Regulation 2 of the Schedule to Railway Board Secretariat Service Rules, 1969 by combining the persons selected under the three categories vide (a) Office Order (Orders Nos 58 of 1979, 41 of 1982 and 15 of 1983), (b) Office Order (Orders Nos 4 of 1983, 5 of 1983 and 6 of 1983), (c) the results of the Limited Departmental Competitive Examination, 1978, as notified by the Union Public Service Commission. That is the format of all the three years. It is, therefore, clear that an attempt was made to induct persons to the cadre of Section Officers from all the three categories specified by the rules. This is, therefore, a case in which the quota rule has been operated upon and the combined list has been prepared of persons who have been inducted from all the three categories. This is not a case in which the quota rule has failed. On the contrary, every year examinations have been held and the induction from all the sources has been made as stated in the reply. The delay, if any, is not in the matter of making appointment but in the matter of preparing a combined seniority list. As already

stated, they were made in the year 1983. The notification of the select list does not have any bearing on the operation of the quota rule which we have found has been satisfactorily implemented. It is, however, maintained by the learned counsel for the petitioner that if the quota rule was being followed, what was the justification for the petitioner being continued on an ad hoc basis from the year 1978 nearly four or five years. It is stated that the ad hoc appointments were made pending filling up of the vacancies on regular basis. The question of continuing the ad hoc appointments would frustrate the purpose of making regular appointments as such the appointments were made on ad hoc basis to facilitate the regular selection to those posts. Hence, it is not possible to take the view that continuance of the petitioner for a couple of years on ad hoc basis indicates that the quota rule has failed. The question of seniority, therefore, does not arise.

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

Malimath

Anil
(S.R. ADIGE)
MEMBER(A)

(V.S. MALIMATH)
CHAIRMAN