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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No. 1737/90

New Delhi: ~~May~~ JUNE 2, 1995.

HON'BLE MR. S.R. ADIGE, MEMBER(A),

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER(J).

1. Shri Mahesh Chandra
Aged 41 years,
S/o Shri Ram Bharose Lal
Dy. Director Engineering,
P&D Unit.
Director General,
All India Radio,
New Delhi. 110001.
2. Shri Arvind Kumar
Aged 40 years
S/o Shri Asha Shankar
Dy. Director Engineering,
P&D Unit.
Director General,
All India Radio,
New Delhi. 110001.
3. Shri J.M.Jain
Aged 42 years
S/o S.P.Jain
Dy. Director Engineering,
P&D Unit.
Director General,
All India Radio,
New Delhi. 110001.
4. Shri Devendra Singh
Aged 42 years.
S/o Shri Jiwa Ram
Assistant Research Engineer,
O/o Chief Engineer (R & D).
Indra Prasth Estate,
Ring Road, New Delhi 110002.

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5. Shri R. Vamdarajan
Aged 39 years.
S/o Shri Rama Subramaniam
Asstt. Research Engineer,
O/o Chief Engineer (R & D).
Indra Prasth Estate,
Ring Road, New Delhi - 110 002.
6. Shri S. C. Garg
Aged 41 years.
Dy. Director Engineering, O/o Chief
Engineer (NZ), Jam Nagar Mutments,
Shahjahan Road, New Delhi - 110 011.
7. Shri S. K. Sharma
Aged 42 years
S/o Sh. S. B. Sharma
Station Engineer, All India Radio,
National Channel, Jawahar al Nehru
Stadium, New Delhi - 110 003.
8. Shri A. K. Kuthiala
Aged 40 years.
S/o Shri N. Chand Kuthiala
Dy. Director Engineering, Doordarshan
Directorate, Mandi House, New Delhi.
9. Shri Vinod Kumar
Aged 40 years.
Station Engineer, Doordarshan Kandra,
Gorakhpur.

By Advocate Shri S.R.Bhatt:... APPLICANTS

- Versus -

1. Union of India ✓
Through its Secretary,
Ministry of Information & Broadcasting
Shastri Bhavan,
New Delhi

... contd..

2. Director General,
All India Radio,
Akashwani Bhavan,
Parliament Street,
New Delhi
3. The Union Public Service
Commission,
Through its Secretary,
Dholpur House,
New Delhi.
4. Shri L.M.Pant, Station
Senior Engineer
5. Sh. Joginder Singh, Station
Senior Engineer,
6. Sh. R.N.Paul, Station
Senior Engineer,
7. Sri Ram Sharma, Station
Senior Engineer,
8. Sh. P.George Mathew, Station
Senior Engineer,
9. Sh. D.Venkataraman, Station
Senior Engineer,
10. Sh. B.N.Bannerjee, Station
Senior Engineer,
11. Sh. J.K.Sen Gupta, Station
Senior Engineer,
12. Sh. T.D. Jose, Station
Senior Engineer,
13. Sh. K.S.Saroja, Station
Senior Engineer,
14. Sh. S.N.Dombal, Station
Senior Engineer

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15. Sh. S. E. Das, Station
Senior Engineer,
16. Sh. J. C. Verma, Station
Senior Engineer,
17. Sh. D. L. Narang
18. Sh. J. P. Jain, Station
Senior Engineer,
19. Sh. T. R. Mehta
Since expired
20. Sh. V. S. Prasad, Station
Senior Engineer,
21. V. P. MANGLA, Station
Senior Engineer
22. SUBHASH CHANDER ARORA, Station
Senior Engineer,
23. P. NATARAJAN, Station
Senior Engineer,
24. A. P. SANTRA, Station
Senior Engineer,
25. C. R. SRINIVASAN, Station
Senior Engineer,
26. H. K. D. NAGAPAL, STATION
SENIOR ENGINEER,
27. K. Bala Krishan, Station
Senior Engineer,
28. T. V. S. RAO, Station
Senior Engineer,
29. T. C. RAM DORAI, Station
Senior Engineer,
30. C. V. RAMAKRISHNAN, Station
Senior Engineer,

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31. R.L-TENEKA, STATION SENIOR ENGINEER
32. K.C.BATRA, Station Senior Engineer
33. MPN. SINGH, Station Senior Engineer
34. S.K.CHATTERJEE, Station Senior Engineer
35. S.RAGHUNATHAN, Station Senior Engineer
36. A.V.ARABATTI, Station Senior Engineer
37. K.NARAYANA MURTHY, STATION SENIOR ENGINEER
38. S.C.GUPTA, STATION SENIOR ENGINEER
39. R.K.Ray, Station Senior Engineer
40. N.V.Subha Raju, Station Senior Engineer
41. V.M.I. Subramaniam, Station Senior Engineer
42. M.Karthi Keyan, Station Senior Engineer
43. O.P. Goel, Station Senior Engineer
44. Y.K.Rajagopalanchari, STATION SENIOR ENGINEER
45. E.C.Chhiber
Assistant Engineer

contd---

46. T. Rajagopalan, Station
Senior Engineer

47. G. D. Bhatia, Station
Senior Engineer

48. V. Vaidyanathan, Station
Senior Engineer

49. Satpal Pandhi, Station
Senior Engineer

50. MG Joshi, Station
Senior Engineer

51. V. K. Sinha, Station

52. Surendra Singh, Station
Senior Engineer

53. B. Verma Reddy, Station
Senior Engineer

54. S. K. Moorjani, Station
Senior Engineer

55. S. K. Garg, Station
Senior Engineer

56. I. M. Sudan, Station
Senior Engineer

57. J. P. S. Arora, Station
Senior Engineer

58. P. V. Isaac, Station
Senior Engineer

59. K. K. Mehta, Station
Senior Engineer

60. Madan Lal, Station
Senior Engineer

61. L. Ramanathan, Station
Senior Engineer

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62. ✓ S. V. Kankal, Station
Senior Engineer

63. ✓ VED Rattan, Station
Senior Engineer

64. ✓ SkK. Sharma

65. ✓ G. K. Thomas, Station
Senior Engineer

66. ✓ Rajendra Prakash Durga, Station
Senior Engineer

67. ✓ Mohd. Ahmed Bakshi, Station
Senior Engineer.

68. ✓ S.P. Singh, Station
Senior Engineer,

69. ✓ G.R. Lakshmi Nathan, Station
Senior Engineer

70. ✓ S.K. Mal, Station
Senior Engineer,

71. ✓ Krishan Mittal, Station
Senior Engineer

72. ✓ D.D. Bhardwaj, Station
Senior Engineer

73. ✓ B.-Sri Kumar, Station
Senior Engineer

74. ✓ M.K.S. Nambiar, Station
Senior Engineer

75. ✓ V.V. Surendran, Station
Senior Engineer

76. ✓ M.C. Gotan

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77. V.K. Gupta, Station
Senior Engineer
78. M. Santhanam
79. Vithal Rao, Station
Senior Engineer
80. A.K. Bajaj, Station
Senior Engineer
81. Jagan Nath, Station
Senior Engineer
82. R.P. Bansal, Station
Senior Engineer
83. D.R. Behl
84. M.L. Lath, Station
Senior Engineer
85. V.R. Jajagopal
86. R.C. Jain
87. S.P. Patil, Station
Senior Engineer
88. N. Swaminathan, Station
Senior Engineer
89. V.K. Pathak, Station
Senior Engineer
90. Manjit Singh Bhatia, Station
Senior Engineer
91. E. Venkata Krishnan, Station
Senior Engineer

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92. G.P. Meheshwari, Station
~~Senior Engineer~~

93. S.C. Srivastava

94. Prem Singh, Station
~~Senior Engineer~~

95. C.P. Matta, Station
~~Senior Engincer~~

96. B.D. Gupta, Station
~~Senior Engineer~~

97. O.P. Girdhar, Station
~~Senior Engineer~~

98. M.R. Krishnaswami, Station
~~Senior Engineer~~

99. S.Narayanan, Station
~~Senior Engineer~~

100. Chaman Lal Senior, Station
~~Senior Engineer~~

101. K.A.S. Nambudripad, Station
~~Senior Engineer~~

102. D.S. Chandrok, Station
~~Senior Engineer~~

103. K. G.A. Pillai

104. S.K. Singh, Station
~~Senior Engineer~~

105. M.L. Manchanda, Station
~~Senior Engineer~~

106. A.S. Kaushik, Station
~~Senior Engineer~~

107. S.V. Vedantachar, Station
~~Senior Engineer~~

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| | | |
|----------------------------------|-----------------------------------|--|
| 108. P.C. Chakraborty, Station | }) Respondents Senior Engineer | No. 4 to 116 to be served through Director- General, All-India Radio, Akashvani Bhavan, Parliament Street, New Delhi |
| 109. V. Srimivasamurthy, Station | | |
| Senior Engineer | | |
| 110. N. Sivaprakasan, Station | | |
| Senior Engineer | | |
| 111. M. R. Nagaraja, Station | | |
| Senior Engineer | | |
| 112. K. C. Vijayan, Station | | |
| Senior Engineer | | |
| 113. John George, Station | | |
| Senior Engineer | | |
| 114. A. S. Swaminathan, Station | }) Senior Engineer | }) }) |
| 115. R. Rajagopalan, Station | | |
| Senior Engineer | | |
| 116. H. S. Bawa, Station | .. RESPONDENTS | }) |
| Senior Engineer | | |

By Advocate Shri P.H. Ram Chandani.

JUDGMENT

By Hon'ble Mr. S.R. Adige, Member (A)

In this application, Shri Mahesh Chandra and others, all working as Station Engineers (Class I Gazzetted) in All India Radio, have impugned the seniority list dated 18.1.89 (Annexure-A9) on the ground of being illegal and contrary to rules and instructions, and have prayed that the same be quashed and the respondents No.1 and 2 be directed to redraw the seniority list in accordance with law after giving due weightage to 1972 rules and relevant guidelines, and to appropriately interlace the

the direct recruits and promotees, including applicants and Respondents No.4 to 116 in their cadres having regard to vacancies existing at the relevant point of time.

2. The case of the applicants is that till the All India Radio (Class I and II Engineering Posts) Recruitment Rules, 1972 came into effect on 30.8.72, recruitment to various categories of posts were being done on the basis of administrative instructions/guidelines, according to which the post of Assistant Engineer was to be filled in the ratio of 80% by direct recruitment and 20% by promotion from amongst the Senior Engineering Assistants with graduate qualification and five years combined service in the grade of Senior Engineering Assistant and Engineering Assistant (including 2 years service as Sr. Engineering Assistant). Under the said administrative guidelines, the minimum qualification for the post of Assistant Engineer (A.E.) was a graduation in Engineering vide respondents' letter dated 7.9.70 (Annexure-A1). The applicants allege that for reasons best known to the respondents, recruitment in either of the two streams viz. by direct recruitments as well as by promotion, was not resorted to between 1965 and 1971 for the post of Assistant Engineer, which is a Class II Gazetted post against which the promotion could be effected on the basis of merit-cum seniority. It is contended that instead of following the prescribed guidelines, the authorities

pursued a policy of making adhoc appointments of Sr. Engineering Assistants (SEAs) after they acquired the minimum qualifications disregarding their suitability and merit to the said selection post and in this connection, the applicants invited attention to the respondents' letters dated 2.6.70 (Annexure-A2), 2.11.70 (Annexure-A3) and 15.4.72 (Annexure-A4). It is contended that the respondents had formulated their proposals to frame recruitment rules which were in the draft stage from 1969-70 onwards and pending their approval and promulgation, these adhoc promotions were resorted to. In addition in 1972, after a gap of about seven years, the process for filling the 80% direct recruitment quota was also resorted to, the posts were advertised, and the applicants as well as several others appeared in the competitive examination held for the posts in June, 1972.

3. Meanwhile, the Recruitment Rules came into force w.e.f. 30.8.72 which provided a cadre strength of 248 in respect of the AEs' posts. It laid down that the posts of AEs continued to be a Class II Gazetted Post (Scale Rs.350-900/-) to be filled up on the following basis:-

- i) 60% quota for promotion from amongst Sr. Engineering Assistants with two years service in that grade; and
- ii) 40% quota for direct recruitment through U.PSC Examination.

The applicants, who had appeared in the Competitive Examinations held in June, 1972 to fill up the vacancies in the pre-existing quota of 80% allocated for direct recruits were selected and appointed

on various dates in 1973.

4. The applicants further state that on 22.5.77, the respondents published a seniority list of AEs as on 1.1.77. One Shri T.R.Mehta, a promotee who was shown at Sl.No.104 in the seniority list, filed a writ petition in the Delhi High Court challenging the same and meanwhile as the CAT had been set up, the said proceedings were transferred to the Tribunal for adjudication. Meanwhile during the pendency of the above proceeding between 1978 and 1981, the applicants were promoted as Assistant Station Engineers (Class I Gazzetted Posts) and were further promoted as Station Engineers (Deputy Director). It is stated that the post of Asstt. Station Engineer is a selection post and the applicants were promoted on the basis of merit and ability. Meanwhile, vide judgment dated 14.5.87, in T.R.Mehta's case, the Tribunal directed the respondents to consider Shri T.R.Mehta for regular promotion to the cadre of AEs as on 12.10.70 in accordance with recruitment rules and orders that were in force, promote him if he was found suitable for regular promotion as on that date and if he was so promoted, then extend to him all consequential benefits flowing from the same. That judgment also directed the respondents to consider the cases of other eligible officials also for promotion to the cadre of AEs from the date of their respective adhoc promotions, and pass appropriate orders thereon. The applicants contend that sequiter to the above order was that the promotion and consequential seniority of the officers in the 20% quota for Sr. AEs was

to be after judging their suitability to the post of AEs after holding a properly constituted DPC, which would review cases of each individual on the basis of merit-cum-seniority.

5. It is further contended that/said T.R.Mehta filed a CCP alleging disobedience of the Tribunal's judgment dated 14.5.87 which was disposed of by order dated 21.12.87 (Annexure-A8), inter alia with the directions to the respondents to hold a DPC to consider the cases of all the Sr.EAs who were eligible as on the dates when the applicants and interveners were promoted on adhoc basis for promotion as AEs on the basis of seniority-cum-fitness and minimum period of service as prescribed in UOs from time to time. The applicants contend that these directions could not be treated as a direction to detract from the pre-existing guidelines and the rules, 1972, both of which/required to be based on merit-cum seniority. Furthermore they contend that the preparation of this seniority list pursuant to the Tribunal's order, had to be worked out on the basis of quota rules existing earlier as well as under the 1972 rules.

6. The applicants contend that purporting to act on these directions, the respondents issued a draft seniority list of AEs dated 8.6.88 against which a number of objections were filed by several direct recruits including the applicants, which inter alia highlighted the facts that the mode of reckoning suitability had not been followed and all promotees of 1970-1972 had been placed en bloc as senior to the direct recruits, even though a quota of 80% : 20% as between direct recruits and promotees had existed

at the relevant period, and that the direct recruits though having been recruited on the basis of merit alone, and had been given two promotions on that basis, were made to lose heavily, since uniformly all of them lost about 100-200 places in the seniority list.

7. It is alleged that in utter disregard to these objections, the respondents proceeded to finalise the revised seniority list on 18.1.89, which affirmed the previous positions obtaining in the draft list and sought to invite objections by 3.2.89. It is alleged that although the said list was required to be circulated, in actual fact, it was not published at many AIR, Doordarshan Centres, as a result of which a large number of officers ^{the} were unaware of list and could not file their objections.

8. The applicants have alleged that in total disregard of the requirement for appointment to a selection post (which required the holding of a review DPC) all 103 promotees were placed en bloc as senior to the applicants, which not only was opposed to the mode of appointment, and principles of seniority, but in utter disregard to the quota rules, which required that the direct recruits and promotees have to be interlaced. The applicants contend that they filed certain representations but received no satisfactory reply, and after publishing the revised seniority list of AEs, the authorities had published a review seniority list of ASEs in April, 1990 and 11.5.90 in which also the position of the applicants has been prejudiced, in that even though they had been actually promoted in between 1978 and 1981,

they have been assigned the later eligibility date and shown as junior to direct recruits of later years. It is stated that their representations in that regard are pending with the authorities.

9. The respondents in their reply have challenged the contents of J.A.S and point out that prior to 1967, the promotions to the AEs cadre which was not considered as a selection post then, was made from the Shift Asstt/Engg. Asstt. Cadre (Class 3 posts) on the basis of seniority-cum-fitness to the extent of 20% of the vacancies, (later extended to 25%) and the remaining vacancies i.e. 80% or 75% of the total vacancies in the AEs cadre were being filled by the direct recruitment on the basis of Engineering Services (Electronics) Examination held by UPSC every year. In 1967, the Engineering cadres of AIR were reorganised and a cadre of Sr. Engineer Assistant (Class II non-gazetted) was introduced, and 100% of the posts of SEAs were to be filled up by promotion of EAs. The promotion to the cadre of AE was to be made from amongst the cadre of Sr. EAs in accordance with the recruitment rules for the post of AEs which were framed thereafter. These recruitment rules for the post of AEs were framed and submitted for approval of the Govt. and UPSC in 1969, ^{and} *inter alia*, provided that the post of AEs in AIR would be considered as selection post. Since the decision on the finalisation of the proposed recruitment rules for the post of AEs of AIR was delayed due to certain considerations Ministry of I & B had agreed from time to time that in order to run the services, some of the SEAs

fulfilling the requisite qualifications laid down in the proposed recruitment rules were promoted on adhoc basis. These promotions were purely on adhoc basis and there was no stipulation about the ratio of direct recruitment AEs and promoted AEs to the ratio of 80: 20. The respondents point out that no recruitment to the post of AEs were made between 1965 to 1971 because the recruitment rules had not been finalised and only adhoc promotions were made for the smooth running of the organisation which were required to be regularised as per the proposed recruitment rules. In the proposed recruitment rules for the post of AEs, which were notified on 20.8.72, there is a provision for direct recruitment to the extent of 40% only and leaving 60% for departmentally promoted candidates. The interse seniority for the promotedes and direct recruits was drawn in the ratio of 3:2 and circulated by letter dated 11.1.77. The respondents state that before the notification of the 1972 Rules, Sr. EAs possessing the requisite qualifications and experience proposed in 1972 recruitment rules, were promoted as AEs purely on adhoc basis and as such these promotions on adhoc basis were subjected to the recruitment rules under consideration which were approved in 1972 and accordingly a DPG meeting was convened in December, 1972 wherein 134 SEAs, some of whom were appointed as AIs on adhoc basis in 1970 and 1971, were considered and 57 of them were included in the select list recommended by the DPG for regular appointment to the AEs cadre. These 57 incumbents were subsequently appointed as AIs on regular basis w.e.f. 31.3.73 and those who were not

recommended for inclusion in the select panel of 57 by the DPC held in December, 1972 to January 1973, by another DPC meeting which was convened in July, 1973, were regularised w.e.f. 27.2.74. The respondents state that while drawing up the inter-se seniority list of the promotedes and direct recruits as on 1.1.77, no benefit of seniority was given for the duration of the adhoc promotions. The respondents further state that as directed by the Tribunal in judgment dated 14.5.87 in T.R.Mehta's case, read with order dated 21.12.87 on the Contempt application, the respondents were required to regularise the AEs promoted on adhoc basis in the years 1970, 1971 and 1972 on the basis of seniority cum-fitness. Accordingly, a DPC was held in February, 1988 and all the adhoc AEs were regularised. On the basis of DPC recommendations, a revised seniority list was prepared and circulated vide Memo dated 18.1.89 which has been now impugned by the applicants. The respondents state that they simply carried out the Tribunal's orders and after drawing up the revised seniority list of the AEs, review DPCs were held for promotion from the post of AEs to ASE in February, 1989 and March, 1989 in the UPSC for the vacancies for the years 1978, 1980, 1981, 1982, 1983 and 1984. The respondents state that on the basis of the review DPCs' recommendations held in UPSC, revised seniority list of ASEs had been prepared which was done as per the Tribunal's directions in para 8(1) of its judgment dated 14.5.87, wherein it was specifically mentioned that all the consequential benefits have to be extended.

10. The applicants in their rejoinder have broadly reiterated the contents of the O.A.

They have alleged that while the Tribunal had ordered the respondents to consider the cases of the applicants for regular promotions in the AEs cadre as from the dates of their adhoc appointments, subject to their suitability, the respondents have neither considered the suitability of these candidates nor followed the recruitment guidelines and placed all the promotees en bloc senior to the direct recruits including the applicants which cannot be justified. They state that the Recruitment Rules/came into force w.e.f. 30.8.72, provided for the ratio of 40% and 60% for direct recruits and promotees respectively, and cannot be given retrospective effect and, therefore the adhoc promotions resorted to by the respondents ^{which} ~~not~~ between 1969 and 1972 could be regulated by the 1972 Rules. They contend that these adhoc recruitment had to be governed by the earlier prevailing ratio of 20% for promotees, more particularly, because the Tribunal's judgment dated 14.5.87 also directed that the adhoc promotions had to be regularised as per the rules or orders that were in force at that time. They contend that though all the 134 SEAs including those who had already been given adhoc promotions as AEs, were considered in December, 1972, only 57 vacancies were filled from the candidates amongst them and the remaining vacancies were from the direct recruitment quota, against which the applicants were selected through the UPSC. The interlacing between the promotees and the direct recruits as done on 11.1.77, should have ^{been} done on the basis of ratio as prevailing before coming into force of the 1972 Rules.

11. We have heard Shri S.R.Bhatt for the applicants and Shri P.H.Ramchandani at considerable length. We have also perused the materials on record and have given the matter our careful consideration.

12. Our attention has been invited to the Tribunal's judgment dated 5.8.94 in O.A.No.1996/88 Shri Surender Singh Vs. UOI. In that O.A., the applicants' grievance was in regard to the seniority list of AEs issued on 8.6.88, which according to the applicant's own contention in the present O.A., formed the basis of the revised seniority list of 18.1.89 now impugned. ¹⁴ The main ground of challenge was that neither the principle of quota rota as between the direct recruits and promotees had been followed nor the principle of continuous officiation in fixing the seniority. The Tribunal after discussing in detail the judgment dated 14.5.87 in T.R.Mehta's case and the order dated 21.12.87 on the contempt petition, held that the revised seniority list of AEs dated 8.6.88 was fully consistent with the Tribunal's said judgment and order. In the judgment dated 5.8.94 while dismissing Surender Singh's O.A., the Tribunal further held that if he had any grievance on the account, he should have filed a review against the Tribunal's judgment in T.R.Mehta's case, and it was not open to him now to challenge the seniority list dated 8.6.88, which was merely a consequent product of that judgment.

13. In our view, the Tribunal's conclusion in Surender Singh's case summarised above, applies with equal force in the present case which is

before us. Applicant's counsel Shri Bhatt has argued that the judgment in Surendra Singh's case (Supra) cannot be construed as a binding precedent in regard to the legality and validity of the impugned seniority list, because that judgment was made in the context of an admission that there was no challenge to the en bloc placing of 103 promotees; that application was made by a promotee who was appointed in 1974 (after the 1972 rules) whereas in the present case, the promotees were appointed in 1970; that there was no challenge to the working out of quota prior to 1972 Rules and there was no challenge regarding eligibility criteria. Shri Bhatt has argued that the arguments advanced in the present case were neither canvassed nor capable of being canvassed in Surendra Singh's case and hence that judgment had to be treated as sub-silentio. In this connection, he relied upon the Hon'ble Supreme Court's ruling in State of UP Vs. Synthetics & Chemicals Ltd. -1991(4) SCC 139, wherein the Hon'ble Supreme Court had held that the observations which on a point had not been considered by a seven-judge Constitution Bench in an earlier judgment between the same parties, to be sub-silentio and consequently the previous larger Bench was inapplicable, holding that:

"Precedents sub-silentio and without argument are of no moment. The Courts have thus taken recourse to this principle for relieving from injustice perpetrated by unjust precedents. A decision which is not express and is not founded on reasons nor it proceeds on consideration of issue cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141. Uniformity and consistency are core of judicial discipline. But that

which escapes in the judgment without any occasion is not ratio decidendi. In B. Shama Rao Vs. Union Territory of Pondicherry it was observed, it is trite to say that a decision is binding not because of its conclusions but in regard to its ratio and the principles laid down therein. Any declaration or conclusion arrived without application of mind or proceeded without any reason cannot be deemed to be declaration of law or authority of a general nature binding as a precedent. Restraint in dissenting or overruling is for sake of stability and uniformity but rigidity beyond reasonable limits is inimical to the growth of law.

14. We are not persuaded to accept Shri Bhatt's argument because it cannot be said that the judgment in Surender Singh's case (Supra) is not express, or that it is not ^{based} on good reasons, or that it proceeds without consideration of the issues involved. That judgment was delivered after hearing both parties and considering all the available materials on record, and the Tribunal came to a settled conclusion that the seniority list of 8.6.88 (which forms the basis of seniority list of 18.1.89 now impugned in the present O.A.) was fully consistent with the Tribunal's earlier judgment dated 14.5.87 in T.R. Mehta's case and order dated 21.12.87 on the CCP. In fact, the judgment in Surender Singh's case specifically concludes that by the earlier judgment and order, the Tribunal had authorised the respondents to consider the case of T.R. Mehta and 103 similarly placed persons and to refix their seniority. It further noted that the respondents were not authorised to effect a change in the relative inter-se seniority of any of the others. It cannot be said that those conclusions were reached without application of mind or proceeded without any good reasons, and hence cannot be deemed to be a declaration of law or authority of a general nature binding as a precedent. Hence the Hon'ble Supreme Court's ruling relied upon

by Shri Bhatt has no application to the facts of the present case. This argument therefore, fails.

15. Shri Bhatt has also argued that the judgment in Surender Singh's case is not a binding precedent, because the necessary parties had not been impleaded; the respondents suppressed the factum of pendency of the present O.A. from the Bench adjudicating upon Surender Singh's case, and furthermore the Bench in Surender Singh's case (Supra) was concerned only with the draft seniority list challenged by a person at Sl. No. 245, who was admittedly junior to both the applicants and the contesting applicants herein.

16. We are not persuaded to accept these arguments either because as stated above, the Tribunal in its judgment dated 5.8.94 in Surender Singh's case (Supra) has categorically held that the seniority list of 8.6.88 which forms the basis of the subsequent seniority list dated 18.1.89 now impugned, was fully consistent with the directions given by the Tribunal earlier. In case the applicants had any grievance in respect of the seniority list, they should have got themselves impleaded in Surender Singh's case or they could have atleast filed a review against the judgment in that case but they did neither, and no advantage can accrue to the applicants because of their own act and omission in this regard. We as a Co-ordinate Bench are bound by the Tribunal's judgment in Surender Singh's case (Supra), and the fact that the Tribunal in Surender Singh's case has upheld the validity of the draft seniority dated 8.6.88, which forms the basis of the seniority list of 18.1.89, now impugned, is sufficient for us not to reopen the matter, which has been adjudicated upon merits by another

findings we are bound to respect and follow.

17. In the result, without going into the other arguments advanced by Shri Bhatt on the merits of the O.A., we are not inclined to interfere in this matter. This application fails and is dismissed. No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)

MEMBER (J)

Adige
(S.R.ADIGE)

MEMBER (A)

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