

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.2149/90

New Delhi, This the 20th Day of October 1994

Hon'ble Shri Justice S.C.Mathur, Chairman

Hon'ble Shri P.T.Thiruvenagadam, Member(A)

Shri Chokas Ram Sharma(39)
S/o Shri Sohnu Ram
GOI Press-Flats, Mayapuri
Ring Road, New Delhi.

..Applicant

By None

Versus

1. Union of India
Service Through
Director of Printing, Nirman Bhawan
New Delhi.
2. Manager
G.O.I. Press, Mayapuri
Ring Road, New Delhi.

..Respondents

By None

D R D E R (Oral)

Hon'ble Shri Justice S.C.Mathur, Chairman

1. The case has been taken up on second call
but no one has appeared from either side although
the names of Shri S.R.Dwivedi has been published
as counsel for applicant and Shri K C Mittal and
Shri O P Sood shown as counsels for respondents.

2. We have perused the record and we proceed
to dispose of the case on merits.

3. The applicant has raised the dispute of
seniority. He joined as LDC in Government of
India Press, Faridabad on 6.11.70. On 8.10.74
he was transferred to Government of India Press,
Mayapuri, Ring Road, New Delhi. On 10.12.87
he was appointed on regular basis on two years
probation. In 1988 a seniority list was issued
in which his name appeared at Serial No.30. This
seniority had been assigned to the applicant
on the basis of office memorandum dated 8.8.88.

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issued by the Director of Printing Press, New Delhi. Thereafter, another office memorandum was issued by the Director on 26-4-89 superseding the office memorandum dated 22-12-59 issued by the Ministry of Home Affairs. As a result of the supersession of the office memorandum dated 8-8-88 the applicant has been down-graded to 43rd position. It is this downgrading which has brought the applicant before this Tribunal. Before approaching the Tribunal the applicant submitted a representation on 7-8-89 which was rejected on 20-10-89.

4. In the application the applicant has stated that he had been recruited through Departmental Promotion Examination (DPE) while the persons who had been placed above him had been recruited through Departmental Promotion Committee (DPC) and therefore the latter cannot be placed in the seniority list en-bloc above him. He has not disputed that the persons who have been placed above him en-bloc had been appointed earlier after selection through DPC. It is averred that between those recruited through DPE and those recruited through DPC required to be fixed on the rota-quota rule. According to the applicant the office memorandum dated 22-12-59 which has been relied upon for superseding and cancelling office memorandum dated 8-8-88 is contrary to the statutory rules. It is also the case of the applicant that he was eligible to be considered for promotion at the DPE which was to be conducted in the year 1976 but the respondents delayed holding of the examination which was ultimately held in the year 1987 for which he could not be blamed.

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5. In the counter affidavit filed on behalf of the administration, it is pointed out that 75% of the vacancies in the cadre of UDC are filled by promotion of LDCs with 8 years continuous service in the grade after selection by DPC and 12½% vacancies are filled by promotion of report writers and the remaining 12½% are filled on competitive written test limited to departmental LDCs and report writers with 5 years service in the respective grade. It is against the last category that the applicant was promoted. Departmental Examination was sought to be held in the year 1977, but the employees of Govt. Press, Ring Road, New Delhi where the applicant was working boycotted the examination and the examination was ultimately held in 1987. In between ad hoc promotions had to be made to fill the 12½% vacancies which was by promotion through DPC.

6. These appointees were regularised in the year 1981. The seniority is assigned in accordance with the principle laid down in office memorandum dated 22-12-59 issued by the Ministry of Home Affairs. The office memorandum dated 8-8-88 issued by the Director of Printing was contrary to the office memorandum issued by the Ministry of Home Affairs and accordingly the same was superseded which has resulted in the downgrading of the applicant. The respondents pointed out that no injustice has been done to the applicant inasmuch as his seniority has now been determined in accordance with the prevailing rules on the subject. It is asserted that under the office memorandum of the Home Ministry all those who are promoted on the basis of the departmental promotion committee selection earlier to those who are appointed on the basis of examination are to be placed en-bloc above the latter.

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7. Since no one appeared at the time of hearing, no rules had been placed before us in respect of determination of seniority. Accordingly we are unable to hold that the office memorandum dated 22-12-59 issued by the Home Ministry is contrary to statutory rules. In the absence of statutory rules, seniority was to be determined in accordance with office memorandum issued by the Home Ministry.

8. It is not in dispute that those who have now been placed above the applicant were promoted to the post of UDC prior to the applicant. If the principle of continuous officiation is applied, the said persons would be senior to the applicant. They could be assigned a different seniority if some rule provided otherwise. No rule has been placed before us and in fact the office memorandum dated 22-12-59 contemplates what has now been done by the respondents.

9. The applicant has challenged his downgrading on the ground that it was done without giving any opportunity of hearing. We are unable to accept this submission as against the downgrading the applicant preferred representation which was rejected. However, in view of the fact that by applicant's downgrading only a mistake has been corrected, we are not inclined to interfere with the seniority list.

10. In view of the above the application lacks merit and is therefore dismissed with no order as to costs as no one appeared on behalf of the respondents. Interim orders, if any operating, shall stand discharged.

L.J. D-52

(P.T. THIRUVENGADAM)
Member (A)
20-10-94

LCP

L.C.W.
(S.C. MATHUR)
Chairman
20-10-94