

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
* * *

O.A. NO. 2466/1990

DATE OF DECISION : 17.01.1992

SHRI P.C. GHUNABAT & ORS.

...APPLICANTS

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM

SHRI I.K. RASGOTRA, HON'BLE MEMBER (A)

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANTS

...SHRI RISHIKESH

FOR THE OFFICIAL RESPONDENT
NOS.1 and 2.

...SHRI M.L. VERMA

FOR THE OTHER RESPONDENTS

...NONE

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✓

JUDGEMENT

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

The applicant, Shri P.C.Ghunabat and four others filed the joint application, aggrieved by the order dt. 9.8.1990 whereby seniority of the applicants has been changed arbitrarily, illegally and without any notice to them.

2. The reliefs claimed by the applicant are as under:-
 - (a) Not to give effect to the impugned order dt.9.8.1990 (Annexure P1).

(5)

(b) To restore the seniority of the applicants as determined originally by the 1976-77 DPC and approved by the Department.

(c) The names of the applicants be included in the zone of consideration for promotion to Group-A post, Junior Time Scale of Indian Telecom Services.

3. The notices were issued to the respondents and were all served. Shri M.L.Verma, appeared for the official respondents and none appeared for the remaining respondents. None of the respondents in his case has filed the counter to the application and last opportunity was afforded to them by the Tribunal by the order dt.27.11.1991

4. We, however, heard the learned counsel for the applicant on admission on 8.1.1992. We have perused Annexure Pl, the impugned order dt. 9.8.1990. In this, the seniority of the officers promoted to the grade of TES Group 'B' was done after the implementation of the judgement of the Central Administrative Tribunal, Chandigarh Bench as a result of a decision in OA No.T-847/1986- Shri Tejpal Bensal & Anr. Vs. Union of India decided on 6.3.1987. As a result of this implementation, the revised seniority was issued and as a result of the revised seniority, the position of the applicants in the revised seniority list has been down graded as shown in the said Annexure P-III in para 3 at page 16 of the paper book. In fact, the main

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grievance of the applicants' counsel is that they were not a party in the said TA 847/86 of the Chandigarh Bench. It was a Writ Petition filed in the Punjab and Haryana High Court under Article-226 of the Constitution of India for quashing the seniority list dt. 12.5.1978. Though it is not evident who are the respondents in that case, but the following directions were given to the respondents, which are at p-41 of the paper book and reproduced below :-

"After taking into consideration all aspects of the matter, we direct that since the seniority list prepared by the respondents has not been correctly prepared, the respondents should consider the 500 vacancies for the first year and the eligible persons falling in the consideration zone upto six times of the vacancies be considered and selected persons out of that panel be placed above the persons selected for the vacancies of the subsequent year after giving the representation to the SC/ST to the extent of 22% in each year. The whole process should be completed within six months."

The main question that arises is that the respondents have done nothing on their own accord, but they have done according to the judgement of the Central Administrative Tribunal, Chandigarh Bench referred to above. In the case of Shri B.D. Joshi Vs. U.O.I., a similar matter came up before the Hon'ble Supreme Court, reported in 1983 SCC (L&S) 321-336. In that case, the point was that the persons who were likely to be affected by the decisions were not impleaded as the respondents. The Hon'ble Supreme Court observed as



follows :-

"The decision in G.M. South Central Railway, Secunderabad, would permit us to negative the contention, this being not a case of individual claim or claim of seniority by one person against specified others, but a question of interpretation of a provision and which interpretation could be given because it would be binding on the Union of India, the presence of others is unnecessary. Union of India would have merely to give effect to the decision of this Court. Therefore, the absence of those who may, by our interpretation, be adversely affected in the facts and circumstances of the case, need not be necessarily here and if the relief could have been granted, the same would not have been denied on the ground that proper parties were not before the Court."

5. In view of the above, the only challenge to the said revised seniority list could be entertained showing that the said judgement of the Central Administrative Tribunal, Chandigarh Bench has not been implemented. The applicants at page-7 of the application have challenged this only stating that neither the process of revising the seniority list has been completed within six months nor the respondents have filled up the vacancies of SC/ST for the first year and also in the subsequent DPC as would be clear from the orders varying the gradation in the blue list. Further, it is stated that neither the applicants have been given any notice nor information nor an opportunity to represent their case. It is said that the revision of the seniority list of the applicants is void in view of certain resolutions and OM issued by the Department of

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Personnel dt. 23.12.1970 and further clarified by the order dt. 2.5.1983. We have seen the revised seniority list and the impugned order dt. 9.8.1990, it is specifically stated that the revision in the seniority list is solely on account of the judgement delivered by the Central Administrative Tribunal, Chandigarh Bench. In the representation to the alleged seniority list made by the applicant, Shri P.G.Ghunabat in August, 1990, the applicant has stated that it is not justified to implement the judgement of the Central Administrative Tribunal, Chandigarh Bench and he may be allowed to approach the Court of law for getting the natural justice against the Central Administrative Tribunal's decision. After this, the applicant and some others have made successive representations. In fact the actual grievance of the applicants is that they were not heard at all in the matter of seniority decided by the Central Administrative Tribunal, Chandigarh Bench. However, this is not the proper forum to challenge the judgement. The applicants would have sought their own remedy according to law. In view of the above discussion, we find that no substantial question of fact and law arises in this application for adjudication as the matter is fully covered by the decision of the Central Administrative Tribunal,

Chandigarh Bench on the basis of which the revised seniority list has been prepared by the respondents.

6. We, therefore, find no merit in this application and the same is dismissed at the admission stage leaving the parties to bear their own costs.

J.P. Sharma
(J.P. SHARMA)
MEMBER (J)

I.K. Rastogi
(I.K. RASTOGI)
MEMBER (A)