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CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 2548 of 1990

New Delhi, dated this the 28th January, 1997

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

Shri Gianendra Singh,
Inspector,
Customs & Central Excise,
Delhi Collectorate,
New Delhi. APPLICANT

(By Advocate: Shri B.L. Madhok proxy counsel
for Shri B.S. Mainee)

VERSUS

1. U.O.I. through
the Secretary,
Ministry of Finance,
North Block,
New Delhi.
2. The Collector,
Customs & Central Excise,
Central Revenue Building,
I.P. Marg,
New Delhi.
3. The Chairman,
Board of Indirect Taxes,
Central Revenue Board,
Ministry of Finance,
North Block,
New Delhi. RESPONDENTS

(By Advocate: Shri R.R. Bharti)

J U D G M E N T

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

Applicant seeks quashing of seniority list dated 1.3.88 and seeks seniority from his date of appointment with all consequential benefits.

2. Admittedly the applicant, who belongs to S.C. Community was appointed as Inspector (O.G) through direct recruitment on 11.9.75.
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His confirmation which was delayed on account of proceeding of disciplinary proceedings, was finally ordered on 1.2.83. He contends that the fact of his seniority being depressed came to his notice only in 1990 when a seniority list as on 1.3.88 was brought to ^Ahis notice after his colleagues had been promoted as Superintendents Grade B vide respondents' letter dated 13.2.90.

3. Respondents have invited attention to the DP & T's O.M. dated 4.11.92 a copy of which is taken on record, in which it has been stated that the seniority of Government servants is determined in accordance with the general principles of seniority contained in their earlier O.M. dated 22.12.59, one of which is that seniority follows confirmation.

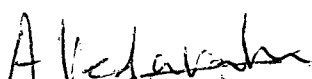
This principle came to be judicially scrutinised in a number of cases and in the most important judgment delivered by Hon'ble Supreme Court on 1.9.90 in Direct Recruits Engineers' case JT 1990(2) SC 264 it has been held that once a govt. servant is appointed to a post in accordance with rules, his seniority will be determined in accordance with date of appointment and not according to date of confirmation. While ordering accordingly, this O.M. states further that the O.M. will take effect from date of its issue

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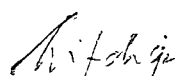
and seniority already determined according to existing principles on the date of its issue shall not be reopened, even if in some cases seniority is already under challenge or is in dispute. This O.M. has not been challenged by the applicant.

4. ~~As~~ Respondents DP&T's O.M. dated 4.11.92 which has not been challenged, has prospective application. That apart the relief prayed for by the applicant will have the effect of his going ~~above~~ nearly 150 officers, none of whom have been impleaded, and unsettling a settled seniority list. Furthermore we note that the applicant on his own admission came to know of his depression in the seniority list when his colleagues were promoted as Supdts. Grade B by order dated 13.2.90. At that point of time, the principle contained in respondents' O.M. dated 22.12.59 that seniority was dependant on the date of confirmation still hold the field, because the Hon'ble Supreme Court's judgment in the Direct Recruits Engineers case was delivered on 2.5.90, that is well after 13.2.90, and 1975 (2) SLR 252 Amrit Lal Beri Vs. UOI relied upon by the applicant's counsel is of no help to him.

5. Under the circumstances, we are not inclined to interfere in this matter. The O.A. is dismissed. No costs.


(Dr. A. Vedavalli)
Member (J)

/GK/


(S.R. Adige)
Member (A)