

(P)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

NEW DELHI

September 9, 1994.

DA 2578/89

Devi Ram  
s/o late Shri Bhagwan Dass  
61, Sewa Sadan Block  
Gali No.2, Mandawali Fazalpur  
Delhi-110 092

.. Applicant

DA 313/90

M.P. Singh  
s/o Shri K.S. Shishodia  
179/R, Aram Bagh  
New Delhi-110 055

.. Applicant

Dr. D.C. Vohra, Advocate for both the applicants

vs.

Union of India, through

1. Secretary

M/Health & Family Welfare  
Nirman Bhawan, New Delhi

2. D.G., Health Services

West Block I, Wing 6, First Floor  
R.K.Puram, N.Delhi-110066

3. D&DG(Stores)

Govt. Medical Store Depot  
CHTO Workshop Building  
Behind Qutab Hotel  
New Delhi-110 016

.. Respondents

Shri N.S. Mehta, Sr. Standing Govt. Counsel

O R D E R (oral)

(By Shri C.J. Roy, Member(J))

Heard the learned counsel for the parties and perused the records. Since both the matters are connected with a common relief, we propose to give a common order.

2. Both the applicants were working in the Ministry of Health & Family Welfare, which has got two wings, i.e. Medical Store Depot and Central Health Transport Organisation (CHTO in short), and both of them claim their seniority in the seniority list with effect from 1.5.1982.

3. Shri Devi Ram in OA 2578/89 has sought the following reliefs:

- (a) To set aside/revoke/quash the order dated 2.2.88 (Annexure S) which is violative of instructions issued by R-1 by circular dated 24.6.87 and by R-2 vide circular dated 29.1.88;
- (b) To direct R-1 to R-3 to assign seniority to the applicant in the grade of Store Keeper/UDC from the date of his continuous officiation in Delhi Medical Store Depot and to give all consequential benefits like promotion etc.

4. Shri M.P. Singh in OA 313/90 has sought the following reliefs:

- (a) To set aside/revoke/quash the order dated 14.9.88 (Annexure GG) which is violative of instructions issued by R-1 vide circular dated 24.6.87 and by R-2 vide circular dated 29.1.88;
- (b) To direct R-1 to R-3 to assign seniority to the applicant in the grade of Store Superintendent from the date of his continuous officiation CHTO and to give all consequential benefits like promotion etc.

5. Precisely stated, the connected facts are that both the applicants were working, having been appointed on ad hoc basis with effect from 1971, in CHTO. They claim that they were deployed in the office of Director, CHTO from the date of their appointment to the newly created Medical Store Deptt in Qutub Enclave (R-3). We see from the Resolution dated 31.5.82 (Annexure E-I in OA 2578/89- Devi Ram) that CHTO was a dying department but its closure was actually in a phased manner. This situation arose because the Government accepted the recommendation of Shri R.C.Sinha, Executive Officer, Association of States Road Transport Undertaking, vide Resolution dated 19.7.88. The said Committee submitted its report on 8.2.79 which was accepted and the Government took a decision that CHTO shall be wound up with effect from 30.4.92 in a phased manner.

6. Here, a situation has arisen wherein we are called upon to consider the seniority of the persons working in CHTO as to whether it is from 1.5.82 as claimed by the applicants or from the subsequent date i.e. 1.2.88 as claimed by the Respondents. The applicants have shown evidence vide Annexure P letter dated 13.7.87, in which the applicants' name appear at Sl.1 and 2 and wherein there is an endorsement against the names that "Employees of erstwhile CHTO working in Delhi Sub-Depot since 1.5.1982". It is also mentioned in para 2 of the letter dated 13.7.87 that "Out of these Shri M.P. Singh, Store Supdt. is working in Store I Section of the Medical Store Organisation". Again we see from Annexure Z letter dated 29.1.88 saying that the "Ministry of Health and Family Welfare have agreed to the absorption of the following nine employees of CHTO in the Govt. Medical Stores Depot, Delhi with immediate effect". Here also the names of the applicants appear at Sl.1 and 2 and in para 2 it is stated that "They should be given seniority in the Medical Store Depot, Delhi from the dates they are taken over in the Depot". But here also no clear date is given.

7. These two applicants, on the strength of the above observation, claim that their seniority should be counted with effect from 1.5.82 by way of a notification. However, they did not give any letter showing the actual date of their posting in the Medical Store Depot.

8. The Respondents on the other hand, in their counter reply, claim that due to lack of space in

(P)

their Department, while phasing out the Department, some of the residual work and material kept in the Medical Store Depot were being looked after by these applicants, their names stand struck off from the strength of CHTO with effect from 1.2.88(FN), they were paid pay and allowances upto 31.1.88 and LPCs were issued to them (R-1 & R-2 dated 15.2.88). Therefore, the respondents claim that since these things have been done in 1988, their seniority should have to be counted from that date and not from the date when the Department made resolution to wind up in a phased manner. This matter has to be decided by the Department by ascertaining the actual date from their past record, but the Tribunal can not decide on the basis of the available material. Therefore, we propose to dispose of these two applications with the following common direction.

9. The Respondents are directed to receive the representation from the applicants within a month from the date of receipt of this order and after receipt, within 3 months dispose of the same after fixing their seniority according to their own record by way of a speaking order. If the applicants are aggrieved, they are given liberty to approach this Tribunal again. With this direction, the two OAs are disposed. No costs. Copy of this order be kept in both the OA files.

10. Respondents counsel is entitled for separate set of fees as per Rules.

*Arif Ali*  
(S.R. Adige)  
Member (A)  
9.9.94

*first*  
(C.J. Roy)  
Member (J)  
9.9.94