

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

D.A. 452/90
M.P. 557/91 & MP 3050/93.

Date of decision: 06.10.93

Sadanand Khanna

... Petitioner.

Versus

Director General of Civil
Aviation, R.K. Puram,
New Delhi & Anr.

... Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. S.R. ADIGE, MEMBER(A).

For the petitioner . . . None.

For the respondents ... None.

JUDGEMENT (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath,
Chairman)

None appeared for the petitioner or for the respondents though we waited for quite sometime. Having regard to the fact that this is an old matter, we thought it proper to dispose of the case on perusal of the records.

2. The petitioner has in this application prayed for a direction to assign him seniority at Serial No.168-A above Shri A.N. Banerji in the seniority list of Assistant Aerodrome Officers notified on 23.8.1977 and for consequential benefits including retrospective promotion to the post of Aerodrome Officer from January, 1977 when his alleged junior Shri A.N. Banerji was promoted and further for a direction to accord him promotion to the post of Senior Aerodrome Officer in Feb, 1985 when Shri J.K. Malhotra was promoted as Senior Aerodrome Office

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and for consequential benefits.

3. The claim of the petitioner based on his allegation is that he was wrongly assigned ranking at Serial No.188 in the seniority list of Assistant Aerodrome Officers notified on 23.8.1977 whereas he is entitled to be placed in the seniority list at Serial No.168-A. This loss in seniority, it is alleged, has contributed to his losing further promotion to the cadre of Aerodrome Officers and to the cadre of Senior Aerodrome Officers. Thus, it is clear that the petitioner cannot secure any relief unless the first relief in regard to grant of seniority in the cadre of Assistant Aerodrome Officers is granted in his favour. We shall, therefore, examine if the petitioner can be granted relief in regard to assignment of appropriate ranking in the seniority list of Assistant Aerodrome Officers as notified on 23.8.1977.

4. The respondents have taken the stand in the reply that the claim of the petitioner in regard to assignment of appropriate ranking in the seniority list of Assistant Aerodrome Officers as notified on 23.8.1977 is highly belated and that the Tribunal has no jurisdiction to grant any relief in regard to giving of proper seniority. The petitioner has asserted that he was not aware of the seniority list of 23.8.1977. The respondents have asserted in the reply that the said seniority list was duly circulated to everyone concerned and that it was expressly stated in paragraph 5 of the said notification

that any errors in the said seniority list be brought to the notice of the concerned authority within a period of one month, failing which the seniority list will be treated as final. There is no good reason to disbelieve the version of the respondents that the seniority list was duly circulated among all persons concerned. The petitioner was, therefore, required to submit his objection, if any, so far as assignment of ranking in the seniority list is concerned, within the specified period of one month. Admittedly, he did not file any such representation. Thus, the ranking assigned to him at Serial No. 188 in the seniority list became final and conclusive in the year 1977. The Supreme Court has emphasised time and again that settled seniority which has held the field for long time should not be disturbed at a later stage, for, it would affect several settled positions which have taken place during the interregnum. The said principle is clearly attracted to this case and ^{we} would, therefore, be justified in saying that the claim of the petitioner is highly belated and, therefore, does not merit examination. We are inclined to take the view that the Tribunal has no jurisdiction to grant relief in regard to the seniority list which became final in the year 1977 for the reason that the Tribunal has no jurisdiction to entertain any application in respect of which cause of action has accrued three years before 1.11.1985, the ✓ date of constitution of the Tribunal. We are, therefore,

clearly of the opinion that we have no jurisdiction to grant the first prayer. If that prayer cannot be granted, further prayers can also not be granted in this case.

5. Another serious infirmity in the application filed by the petitioner is that the petitioner has not impleaded all necessary parties. In the seniority list of Assistant Aerodrome Officers prepared on 23.8.1977, the ranking assigned to the petitioner is 168. He wants us to direct the respondents to give the ranking at Serial No. 168-A immediately below the ranking at serial No. 168. The petitioner has not impleaded all those persons who have been placed between Rank No. 168 and 188 in the seniority list of 23.8.1977. We cannot grant relief to the petitioner in this case so as to affect the rights of persons who have been placed above in the seniority list without giving the persons likely to be affected by our decision an opportunity of being heard. The petitioner not having impleaded necessary parties over whom he claims seniority, this petition is liable to be dismissed on the ground of non-impleading of necessary parties. Without examining the merits of the case, we are inclined to take the view that this application is liable to be dismissed, as aforesaid. Two applications, MPs 557/91 and 3050/93 for direction to produce certain records do not survive in the view which we have taken, as above, and they are accordingly rejected.

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6. For the reasons stated above, this application is rejected. No costs.

Surjana
(S.R. ADIGE)
MEMBER (A)

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Malimath

(V.S. MALIMATH)
CHAIRMAN