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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 567/90

New Delhi this the 6th day of July, 1994

CORAM :

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

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

1. Shri P. N. Chopra S/O S. L. Chopra,
R/O 19/267, DMS Colony,
Hari Nagar, New Delhi.

2. Shri S. K. Srivastava S/O Shri
D. N. Srivastava,
R/O E-5, DMS Colony,
West Patel Nagar,
New Delhi.

... Applicants

By Advocate Shri G. D. Gupta

Versus

1. Union of India through
Secretary to the Govt. of India,
Ministry of Agriculture,
Krishi Bhawan, New Delhi.

2. Delhi Milk Scheme through
its General Manager,
West Patel Nagar,
New Delhi.

3. Shri M. S. Tripathi,
Section Manager,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi.

... Respondents

By Advocate Shri V. S. R. Krishna

O R D E R (ORAL)

Shri J. P. Sharma, Member (J) :-

The applicants along with some others filed Writ Petition No. 186 of 1979 - Shri S. N. Sharma & Ors. vs. Union of India & Ors. in the High Court of Delhi, wherein they had challenged their reversion from the post of Managers, Milk Collection and Chilling

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Centre to the post of Dairy Supervisors/Assistant Managers. That writ petition stood transferred to the Tribunal and registered as TA-442/85 and decided by judgment dated 13.11.1987 with the direction to the respondents, after quashing the order of reversion, to determine the vacancies that arose in each of those years to hold a DPC meeting to draw-up a list, to determine the zone of consideration with reference to the vacancies of that year and for this purpose assess the merit of only those officers who were then eligible and fell within the zone of consideration. If on such assessments, the petitioners would be promoted in continuation of their earlier ad-hoc promotions, to give them the benefit of their ad-hoc service and their seniority in Class-II posts was to be determined on the basis of their total length of service including their ad-hoc service in Class-II.

2. The applicants, Shri P. N. Chopra and Shri S. K. Srivastava, have a grievance that the seniority list of Section Managers, a copy of which has been placed at page No.87 of the paperbook, shows that Shri P. N. Chopra at sl. No.14 and Shri S. K. Srivastava at sl. No.15, while the date of their ad-hoc promotion is January, 1974 and September, 1974 respectively. Respondent No.3, Shri N.S. Tripathi has been shown as promoted on ad-hoc basis on 15.9.1974 and is shown at sl. no. 12. The grievance of the applicants is that Shri Tripathi has been shown senior to them. They have filed the present application for grant

of the relief that the respondents should determine seniority of the applicants on the basis of directions issued in the judgment of TA-442/85 decided in November, 1987 and give them the consequential benefits and that the applicants be not rendered surplus and be not sent to the Surplus Cell.

3. The respondents have contested this application and opposed grant of relief on a number of grounds stating that as per the directions in the judgment of the Tribunal in TA-442/85 the yearwise panel was drawn and that respondent No.3, Shri Tripathi, was considered for promotion in the year 1972 and both the applicants were considered at that time, but the DPC did not recommend them to be empanelled in the vacancies of that year. However, they were subsequently empanelled for the vacancies of the year 1973. As such respondent No.3 who had got promotion to the post of Section Manager earlier to the applicants in an earlier vacancy, has stolen a march over the applicants as the post of Section Manager is a selection post, where empanelment is done on the basis of assessment of the service record.

4. We have heard the learned counsel for the respondents yesterday and also the applicants to some extent and the matter was adjourned for today. Shri Gupta, learned counsel for the applicants, stated that the applicants do not want to press this application and that they want to withdraw the same provided the respondents are directed not to declare them surplus or send them to surplus cell. The learned counsel

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for the respondents Shri Krishna, on instructions from the departmental representative Shri Shyam Lal, LDC, stated that the petitioners are not being declared surplus and a copy of the order dated 20.11.1992 has also been filed in this behalf, which has been taken on record.

5. In view of this, we do not find it necessary to scrutinise the contentions raised in regard to seniority of the applicants vis-a-vis Shri Tripathi, respondent No.3.

6. This application, therefore, is dismissed as withdrawn only with the condition that the applicants shall not be declared surplus by the respondents in view of their own memo dated 8.10.1990. No costs.

S. R. Adige
(S. R. Adige)
Member (A)

J. P. Sharma
(J. P. Sharma)
Member (J)

/as/