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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A. No. 717/90

New Delhi : November 25th, 1994.

HON'BLE MR. C.J.ROY, MEMBER (J.)

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

Shri S.K.Sharma,
s/o Shri H.S.Sharma,
r/o Q.No.C-2/6, Deal Colony,
Raipur Road, Dehradun ,
employed as Senior Scientific Asstt.

Mechanical Engineering Division,
Defence Electronics Applications Laboratory,
Dehradun (UP)Applicant.

By Advocate Shri Gyan Prakash.

VERSUS

Union of India, through

1. The Secretary to the Govt. of India.

Ministry of Defence,
South Block, New Delhi.

2. The Scientific Adviser to the Defence,
Minister & Director General,

Research and Development,
Ministry of Defence,
South Block,
New Delhi.

3. The Director,
Defence Electronics Applications Laboratory,
DEAL, Raipur,
Dehradun.Respondents.

By Advocate Shri M.K.Gupta.

JUDGMENT

By Hon'ble Mr. S.R.ADIGE, MEMBER(A).

In this application, Shri S.K.Sharma, Senior Scientific Assistant, Mechanical Engineering Division, Defence Electronics Applications Laboratory, Dehra Dun, has prayed that the respondents be directed to reassign his seniority in the SSA grade with effect from the date of his joining the said

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grade, and to renotify the seniority roll in supersession to the one already issued vide Personnel Circular dated 3.11.89 together with consequential benefits.

2. The applicant's case is that he was appointed as JSA (Gr.II) on 5.9.79 and was subsequently promoted as JSA (Gr.I) w.e.f. 29.1.83, and was thereafter promoted as SSA w.e.f. 17.9.86, and was confirmed as SSA w.e.f. 15.3.90. He states that on 3.11.89, the respondents circulated a seniority list (Annexure-A3) inviting objections, if any, in which he found that his name had been shown at S.No. 1264 and was thus placed junior to directly recruited SSAs who had joined after him. He states that his representation against the alleged wrong fixation of seniority having been rejected, he has filed this O.A.

3. The respondents have contested the O.A. and in their reply point out that the post of SSA is a Group 'C' non-gazetted post. Prior to 29.8.87, this post was required to be filled up 2/3rd by promotion and 1/3rd by direct recruitment. For the purpose of promotion Defence Research Development Organisation Estt/Labs/Units were grouped into separate groups (DRC -II) and direct recruitment was made at Estt/Labs/ Units level. DRCs of these Estts/Labs/Units met twice a year to draw panels for promotion to the post of SSA. For the purpose of promotion to the next higher post of JSO, which was a Group 'B' Gazetted post, a combined seniority roll

of SSA was prepared by merging the panels for promotion drawn by different DFC-II groups, and thereafter fixing the seniority by rotation of vacancies between promotees and direct recruits according to the prescribed ratio. Thus, the seniority roll of SSA was prepared in accordance with the Recruitment Rules and the relevant administrative instructions contained in MHA O.M. dated 22.12.59.

4. We have heard Shri Gian Prakash for the applicant and Shri M.K.Gupta for the respondents.

5. Shri Gian Prakash bases his case on the ground that continuous officiation in a post for a long time confers a claim for seniority even though the initial promotion might have been on adhoc basis and cites the authority of Narendra Chadha & others Vs. Union of India & others-1986(1) SLJ SC 287 in support of his assertion that the promotees posted against the direct recruitment quota on adhoc basis and continuing as such, are entitled to seniority from the date of their seniority. Certain other rulings have also been cited namely; Baleshwar Dass & others Vs. State of U.P. & others- AIR 1981 SC 41; N.K.Chauhan & others Vs. State of Gujarat & others- AIR 1977 SC 251; A.J.Reddy Vs. UOI- AIR 1983 SC 749; G.P.Dovel & others Vs. Chief Secretary, Govt. of U.P-AIR 1984 pagel527.

6. Shri M.K.Gupta for the respondents has pointed out that the ratio of the judgment in Narendra Chadha's case (Supra) as well as the other cases cited by the applicant are not applicable to the facts of the present case, ^{because} the Hon'ble Supreme Court directed

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to fix the seniority on the basis of length of service in cases where the quota rota system has substantially failed, but in the instant case the quota-rota system has not failed as the promotion and direct recruitment have been made every year. Hence the seniority fixed by the rotation of vacancies between the promotees and direct recruits in the ratio prescribed in the Recruitment Rules and in accordance with the administrative instructions issued by the Government, is legally valid and sustainable and the applicant's contention that his seniority should be fixed on the basis of length of service, is untenable.

7. We have given our careful consideration to this matter. For the ratio in Narendra Chadha's case to be attracted, the quota-rota system must be shown to have substantially failed, on the basis that the rotation of vacancies between the promotees and direct recruits has not made over a number of years. This is obviously not the situation in the present case, because the seniority roll of SSA(Annexure-A3) shows that right from 1979 onwards, the rotation between the promotees and direct recruits in the prescribed ratio has been maintained except for the appointments covering the dates from 15.9.83 upto 16.9.85 and again the dates covering the period from 17.3.86 upto 15.9.86. This is obviously too a short period to conclude that the quota-rota system has totally broken down. ^{over a number of years} The judgment in

A
Direct Recruit Class II Engineering Officers

Association Vs. State of Maharashtra -1990(2)SCC 715, relied upon by Shri Gian Prakash also does not help the applicant because the applicant is neither covered by Principle (A) nor by Principle (B), enunciated in the judgment, as would be clear from the reading of the judgment in I.K.Sukhija Vs. UOI -1994(26) AIC 779, which has discussed in detail the law laid down in Narendra Chadha's case (Supra), Keshav Chandra Joshi Vs. UOI-1992 Supp(1) SCC 272 as well as the Direct Recuit's case (Supra) and other connected case. Obviously, the applicant's promotion on adhoc basis w.e.f. 17.9.86 was not made according to the rules, for him to cover under Principle (A), and the period of adhoc promotion as SSA w.e.f. 17.9.86 and his confirmation w.e.f. 15.3.90 i.e. even less than four years is nowhere nearly 15^{1/2} years for adhoc service required for Principle (B) to be applicable.

8. Under the circumstances, the applicant has failed to make out any case which would warrant our intervention in this matter and this application fails. It is accordingly dismissed.

9. No costs.

Adige
(S.R. ADIGE)

MEMBER (A)

25/11/94
(C.J. ROY)
MEMBER (J)