

(28)

CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

OA No.1230/91

New Delhi this the 7th day of January, 1997.

Hon'ble Mr. S.R. Adige, Member (A)
Hon'ble Dr. A. Vedavalli, Member (J)

1. S.P. Bahl,
S/o late Sh. Manohar Lal Bahl,
R/o 6-A, Kundan Nagar,
Delhi-110092.
2. P.N. Vij,
S/o late Sh. Nand Gopal Vij,
A-307(479), Moti Bagh II,
New Delhi-110021.
3. T.R. Sharma,
S/o late Sh. Thakur Dass,
Qr. No.891, Sector-III,
R.K. Puram,
New Delhi.Applicants

(By Advocate Sh. C.B. Pillai)

-Versus-

1. Secretary to Govt. of India,
Department of Personnel and
Training, North Block,
New Delhi.
2. Director,
C.S. II Section,
Department of Personnel
and Training,
North Block,
New Delhi.Respondents

(By Advocate Sh. C. Hari Shankar, proxy for
Sh. Madhav Panikar, Counsel)

1. Shri Soudagal Singh,
Asstt. U.P.S.C.
Dholpur House,
New Delhi.
2. Shri Vidya Rattan Sanyal,
Asstt., U.P.S.C.
Dholpur House,
New Delhi.Intervenors

(By Advocate Ms. Raman Oberoi)

ORDER (Oral)
(Hon'ble Mr. S.R. Adige)

In this O.A. the three applicants, pray for confirmation w.e.f. 1.5.61 in respect of applicants S/Shri S.P. Bahl and P.N. Vij, and w.e.f. 31.10.62 in respect of applicant Sh. T.R. Sharma and consequent repositioning in the seniority list issued on 16.2.90 as on 1.11.62 with attendant benefits.

2. We note that the applicants had filed Writ Petition No.6508-15 of 1980 before the Hon'ble Supreme Court, with the grievance that some of the respondents in that Writ Petition had been confirmed in service earlier to them as a result of which they had been made senior to the applicants in violation of relevant OMs issued by MHA from time to time. The Hon'ble Supreme Court in its judgement dated 24.3.88 noted that the final seniority list in the Central Secretariat Clerical Service was yet to be prepared and directed the respondents to do so as early as possible, and while doing so to take into account the relevant OMs issued by the MHA from time to time.

3. Thereafter the applicants filed CP-208/89, alleging contumacious non-implementation of the Hon'ble Supreme Court's order dated 24.3.88. As the final seniority list had been published by then, the Hon'ble Supreme Court by its order dated 4.12.90 dismissed the Contempt Petition, but while doing so took note of the applicant's contention that the list contained a number of errors in determining the

seniority of the applicants, and observed that if the applicants were aggrieved by the determination of their seniority they were free to pursue their remedies before the Central Administrative Tribunal.

4. It is in the light of the above that the present O.A. has been filed.

5. We have heard Sh. C.B. Pillai for the applicants Sh. C. Hari Shankar, for the respondents and Ms. Raman Oberoi for the intervenors at considerable length.

6. We note that the impugned seniority list dated 16.2.90, contains as many as 7600 names and it is the applicants' contention that they should be placed above Serial No. 4168 Sh. J.N. Goswami. Accordingly, as other persons in the seniority list might have been adversely affected if the prayers were allowed, the Tribunal vide its order dated 8.5.96 had directed that the applicants issue an advertisement in two separate national dailies, one on each date, on two successive dates, stating that if anybody is aggrieved by the prayer sought for by the applicants they should file reply to the same within six weeks from the date of publication of the advertisement. We understand that this has been done but no replies have been brought to our notice during the course of hearing today.

(4)

7. During the course of the arguments, Sh. Pillai has asserted that S/Sh. Goswami, Kripal Singh, Pyre Lal, Balak Ram, K.C. Choudhary and certain other mentioned in the OA have been given the benefit of seniority by a wrong interpretation of MHA OMs of 29.12.61 and 24.4.62 and if they had been excluded from the impugned seniority list dated 16.2.90, the applicant could be confirmed from the dates from which confirmation has been prayed for, because vacancies would then become available.

8. In this connection, it is alleged that persons with military service were wrongly given the benefit of MHA's OMs referred to above, and certain other averments have also been made in support of this contention of wrong interpretation of MHA's OMs.

9. We note that these contentions would involve a detailed and comprehensive scrutiny of the service record of each of the persons named by the applicants and referred to above, and the calculation of the available vacancies at different points of time, which is a task, that we feel should be conducted in the first instance by the respondents themselves, who have the factual data, including the service records of all the employees concerned.

10. Under the circumstances with the consent of all the three counsel present (in this connection we note that Sh. Rajan Sood, Assistant, Department of Personnel and Training is also present in the Court), we direct that the respondents should

(5)

treat the OA/intervenor application filed by the applicants/intervenors as their representation and after examining the contents of the same, pass a detailed, speaking and reasoned order on merits in accordance with law under intimation to the applicants/intervenors within three months from the date of receipt of this judgement. In this connection, all counsel present agree that the applicants/intervenors may be associated with the examination by the respondents and in the event that the applicants/intervenors seek to file any additional materials to support their contention taken in the OA, they may do so within two weeks from today.

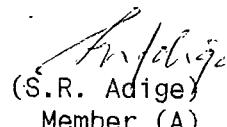
11. All counsel present also agree that if any grievance survives thereafter, it will be open to the applicants/intervenors to agitate the same through fresh proceedings in accordance with law, if so advised, for which purpose having regard to their financial condition they may do so on plain paper without requiring them to pay court fees afresh.

12. The O.A. is disposed of accordingly.

No costs.



(Dr. A. Vedavalli)
Member (J)



(S.R. Adige)
Member (A)

'Sanju'