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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

D.A.No.1961/1991

New Delhi, This the 1st Day of November 1994

Hon'ble Shri Justice S.C.Mathur,Chairman

Hon'ble Shri P.T.Thiruvengadam,Member(A)

Shri Chitra Mani  
Joint Asst Director(Accounts)  
PAD, BSF Hqrs  
Pushpa Bhawan  
New Delhi.

..Applicant

By Shri G S Begrar, Advocate

Versus

1. Director General  
Border Security Force  
Block No.10, CGO's Complex  
Lodhi Road, New Delhi 110003.
2. Deputy Director(Pers)  
Border Security Force  
Block No.10, CGO's Complex  
Lodhi Road,  
New Delhi -110003.
3. Dy Director(Accounts)  
Border Security Force  
PAO Pushpa Bhawan  
New Delhi 110062.
4. Shri R K Sood  
Jt.Asstt Director(Accounts)  
General Administration(PAD)  
Border Security Force  
Pushpa Bhawan  
New Delhi 110062.

...Respondents

By Shri Jog Singh, Advocate

O R D E R(Oral)

Hon'ble Shri Justice S.C.Mathur,Chairman

1. In the present application the applicant Shri Chitra Mani has challenged the absorption of Respondent No.4 Shri R K Sood in the BSF organisation and assignment of seniority to him over the applicant.
2. On facts there is no dispute between the parties. The applicant was appointed Joint Asst Director(Accounts) with effect from 7.6.85.

(1a)

Respondent No.4 was Junior Accounts Officer of the Principal Accounts Officer in the office of the Controller of Accounts, Ministry of Personnel Public Grievances and Pension. He was drawing salary in a scale lower than the salary which the applicant was drawing on the post of Joint Asstt Director(Accts). On 30.5.1984 Respondent No.4 joined BSF on deputation basis and he was posted as Joint Asst Director(Accts). He was permanently absorbed in the BSF by order dated 8.1.1988. On 24.7.1991 an order was issued by the Dy Director containing assignment of inter-se seniority in the cadre of Joint Asst Director(Accts). In this order Respondent No.4 is shown at serial No.3 while the applicant is shown at Serial No.4. The applicant alleges that Respondent No.4 has been wrongly assigned seniority above him. According to him he has been working on the post of Joint Asst Director(Accts) from a date prior to the date on which Respondent No.4 was permanently absorbed. It is also the case of the applicant that on the date the Respondent No.4 was brought on deputation to the BSF he was <sup>not</sup> holding analogous post in his parent department and therefore he could not be appointed as Joint Asstt Director(Accts). On this basis he has also challenged the order dated 8.1.88 whereby Respondent No.4 was permanently absorbed in the BSF.

3. The application has been opposed on behalf of the public authorities namely Director General, BSF, Deputy Director, BSF and Deputy Director(Accts).

Shri R K Sood was impleaded as Respondent No.4

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but despite service he has not put in appearance.

4. On behalf of Respondents No.1 to 3 it has been asserted that the post of Junior Accounts Officer was treated as ~~post~~ equivalent to that of Joint Asstt Director(Accts) by order dated 1.4.87. On this basis it is asserted that there was no flaw in the transfer by deputation of Respondent No.4. It has also been submitted on behalf of the Respondents that the transfer by deputation of Respondent No.4 was challenged in this Tribunal in OA 591/88, but by judgement and order dated 3.4.92 the challenge was negatived. It has been brought to our notice that against this judgement SLP has been filed. The learned counsel for the Respondents has stated that the SLP is still pending. The learned counsel for the respondent has submitted that in view of the pendency of the SLP, hearing of the present application may be deferred. We do not consider it necessary to defer the hearing of the present application. In the present application the primary grievance of the applicant is in respect of assignment of seniority. If the SLP is allowed and Respondent No.4 is ousted from the BSF applicant's grievance in respect of his permanent absorption in the BSF will stand satisfied.

5. Since the dispute relating to permanent absorption has already <sup>been</sup> decided by a Double Bench of this Tribunal we do not consider <sup>it necessary</sup> to reopen it. Of course the matter will be governed by the judgement which may be passed by the Hon'ble Supreme Court.

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6. Even if we accept the submission of the learned counsel for the respondents that the post held by Respondent No.4 was equivalent to the post held by the petitioner Respondent No.4 cannot rank senior to the applicant as the equivalence was granted only with effect from 1.4.87. Prior to this date the applicant was holding the post with effect from 7.6.1985. The Respondent No.4 could at the most claim to be holding the post of Joint Asst Director(Accts) or a post equivalent thereto only from 1.4.87 and not from any date prior to this. The Respondents consequently committed obvious mistake in assigning seniority to applicant at Serial No.4 and placing Shri Sood at Serial No.3. The impugned annexure A1 dated 24 July 91 accordingly is liable to be quashed.

7. In view of the above the application is partly allowed and the impugned office order dated 24.7.91, Annexure A1 is hereby quashed to the extent it assigns seniority to the applicant and Respondent No.4 Shri R K Sood. Between the applicant and Shri R K Sood applicant shall be treated senior. There shall be no order as to costs. Interim order, if any operating, shall stand discharged.

P.T. Thiruvenkadam

(P.T. THIRUVENGADAM)  
Member(A)  
1-11-94

S.C. Mathur

(S.C.MATHUR)  
Chairman  
1-11-94