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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2316/1991

New Delhi, this 23rd day of February, 1996

Hon'ble Shri B.K. Singh, Member(A)
Hon'ble Dr. A.Vedavalli, Member(J)

1. Shri Yash Pal Banga
4/17, Moti Nagar, New Delhi-15
2. Shri Prem Kumari Bhatia
B3A/237, Janakpuri, New Delhi
3. Shri S. Nagarajan
56/2, CVD Quarters, Sadar Bazar, Delhi .. Applicants

By Shri T.C. Aggarwal, Advocate

versus

Union of India, through

1. The Secretary
M/o Defence, South Block, New Delhi
2. Engineer-in-Chief
Kashmir House AHQ, New Delhi-11 .. Respondents

By Shri V.S.R.Krishna, Advocate

ORDER(oral)

Hon'ble Shri B.K. Singh

The three applicants before us have jointly filed this OA for counting of their seniority rendered on officiating basis as Office Superintendent, Grade II (OS G.II in short). They joined the respondents as LDCs and subsequently promoted as UDCs, Assistants and then OS G.II. Some of the officers similarly situated but junior to applicants approached the Madras Bench of the Tribunal through TAs 177, 465 and 427/88 and OA 287/86. These applications were clubbed together because similar facts and issues were involved and a common judgement was given to the effect that the officiating service should be counted by the respondents for purposes of seniority and they should be given all consequential benefits including promotion to the higher grade of OS. Administrative Officer Grade II and Grade I with respect to the dates on which their juniors were promoted based on the revised seniority list. Subsequently, some others also

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approached the Bombay Bench of the Tribunal and they followed the ratio of the judgement given by the Madras Bench and these benefits were extended to the applicants before the Bombay Bench. The operative portion of the Bombay Bench judgement reads as follows: "In view of the fact that the junior has been given benefit of this promotion the case of the applicant also deserves consideration. Accordingly this application is allowed to the extent that in case Shri Mahadevan is junior to the applicant and he was not within the zone of consideration in the year 1975 and was not also promoted in the year 1980 but was promoted thereafter the applicant shall also be promoted like him and retain his seniority may be by adjusting the seniority which has been fixed by the respondents.." Subsequently, one more officer similarly circumstanced approached the Ernakulam Bench of the Tribunal through OA 1905/94 and the judgement was pronounced on 7.7.95. It is admitted that the respondents did not file any review application against the judgement given by the Madras Bench, nor did they go in for SLP before the Hon'ble Supreme Court. Thus, the judgement of Madras Bench has become final and the Bombay Bench accepted the ratio of that judgement and extended the benefits to the applicants before that Bench. The Ernakulam Bench, however, made a slight deviation and took into consideration others who were not before them and were likely to be affected because of such a decision. We are inclined to agree with the view of Ernakulam Bench, which is extracted below: "Applicant may submit a representation to the 2nd respondent within one month bringing to the respondents notice the decision in OA 736/88 of the Bombay Bench and enclosing a copy of this order. If such a representation is made, the 2nd respondent shall consider it and pass appropriate orders within three months of receipt of the representation, if necessary, with

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due notice to the affected parties". This will protect the interests of those who are not before the Tribunal but are likely to be adversely affected by this judgement. Once the seniority is revised, names will have to be interpolated and there would be changes in the existing seniority list and therefore it is necessary to ensure that their interests are also well protected because they would also get an opportunity of being heard by the respondents before their seniority is changed. Since the learned counsel for the applicant also prays for consequential benefits the same is already covered by the Madras Bench judgement, followed by Bombay Bench and Ernakulam Bench. It is presumed that the respondents will consider the representations of these four applicants to be filed by them within a fortnight and dispose of the same by an appropriate order taking into consideration the ratio of the Ernakulam Bench judgement of affording an opportunity of being heard to those who are likely to be affected by such an order. This should be done within a period of 3 months from the date of receipt of the representations from the applicants with due notice to those likely to be affected by such an order.

2. With these directions, the OA is disposed of finally but without any order as to costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member(J)
23.2.96

B.K. Singh

(B.K. Singh)
Member(A)
23.2.96

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