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Central Administrative Tribunal
Principal Bench

OA No.388/91

New Delhi: February 20, 1995.

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

Hon'ble Mrs Lakshmi Swaminathan, Member (J)

1. K.R.Chauhan
R/o 46-C, LIG Flats
Madipur
New Delhi.
2. H.K.Pal
R/o RZG-79/2 Mandir Marg
Mahabir Enclave
Palam Road
New Delhi
3. V.K.Malhotra
R/o Double Storey Quarter
Ramesh Nagar
New Delhi
4. R.L.Kapoor
R/o C-5 Type III, Park Area
Shimla (HP) - 171 002
(By Advocate: Mr. A.K. Bahera)

...Applicants

Versus

Union of India through

1. Secretary
Ministry of Finance
North Block
New Delhi
2. National Savings Commissioner for India
12 Seminary Hills
Nagpur
3. Secretary
Ministry of Personnel
North Block
New Delhi

...Respondents

(By Advocate: None)

J U D G E M E N T

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

In this application, Shri K.R.Chauhan and 3 others have impugned the All India Eligibility List of District Savings Officers (DSO) dated 10.5.88 on the ground that it has allegedly been prepared on the wrong principles, and has prayed that the All India Eligibility List of DSOs prepared earlier on 22.6.87 is the correct one.

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2. The applicants' case is that they were initially appointed as District Savings Officers in the State Government. Upon their request ^{15.} ~~they~~ were transferred to Delhi Region on the condition that they would count their seniority in the DSOs grade in Delhi region from the date they joined duty there, and would forgo their claim for confirmation and promotion in their earlier region. The applicants accepted this condition and joined Delhi Region. On the basis of the Fourth Pay Commission's Recommendations and their acceptance by government, the posts of Assistant Regional Director were merged with the posts of Dy. Regional Director w.e.f. 1.1.86 and according to the applicants, the respondents circulated an All India Eligibility List of DSOs vide their letter dated 22.6.87 by observing the following principles:

- (a) Inter-regional seniority of DSOs was fixed in the order of length of continuous service rendered in that post.
- (b) If two or more DSOs in different regions joined on the same day, their seniority would follow the order of seniority in age.

The applicants state that this seniority list was based on the correct principles, but all of a sudden, vide letter dated 10.5.86, the respondents circulated another All India Eligibility List of DSOs in supersession of their earlier list dated 22.6.87 by observing the following principles:

- (i) Regional & inter-regional seniority in the gradation list of the regiona has been maintained.
- (ii) Within the region, their seniority list in the gradation list of the region has been maintained.
- (iii) The seniority of DSOs/Head Clerks who were trasferred from one ^{circle} ~~district~~ to another has been determined with reference to their position in the region where they are presently working.
- (iv) If two or more DSOs in different regions has joined on the same day, their seniority follows in the order of seniority in age.

3. The applicants contend that as the eligibility list of DSOs is maintained on All India basis, the correct principle of seniority should have been length of service in that grade and the respondents have acted arbitrarily in not taking into account the service rendered by them before being transferred on their request for the purpose of fixing their position in the All India Eligibility List dated 10.5.88.

4. The respondents in their reply have challenged the contents of the OA. They state that the list dated 22.6.87 was not a final seniority list, but only an administrative letter issued for cross checking entries regarding appointment, confirmation etc. It was not to be circulated at all, and when it was found that it had been circulated, a letter was issued on 1.10.87 (Annexure R-1) clarifying that it was not meant for circulation. It is stated that no promotion has been made on the basis of the list dated 22.6.87, and no official can derive any unintended benefit on the basis of a letter which was only a preliminary exercise for preparing an All India Eligibility list dated 10.5.88. It has been emphasised that the DSO cadre was a state cadre and not an All India Cadre. Only upon the request made by a DSO for a transfer to another State, was he transferred but this could not be at the cost of the seniority of those already working in the receiving State/Region and that is why the transferred DSO occupied the junior most position in the gradation/seniority list of the receiving State/Region. That is why they had also to give an undertaking accepting the condition that they would count their seniority in the DSOs grade in the new region/State from the date they joined duty in that region/state, and they had to forgo their claim for confirmation and promotion in their present region (the region from which the transfer was sought). Only when they accepted those conditions were they transferred from one State to another.

5. We heard Shri Bahera for the applicants. None appeared for respondents. We have perused the materials on record and considered the matter carefully.

6. It is clear from the respondents' letter dated 10.10.87 (Annexure R-1) that the earlier list dated 22.6.87 was only a preliminary exercise and not for circulation and was subsequently withdrawn. There is, therefore, merit in the respondents' stand that no one can be allowed to derive any unintended benefit from what was only a preliminary effort at preparing the all India seniority list. That apart, the applicants had been transferred to another State upon their own request and upon their agreeing in writing that (i) their seniority in the DSO grade be counted in the receiving State/Region from the date they joined duty there and (ii) their claim for confirmation/promotion in their present region (from which their transfer was sought) was forgone. If now their inter-regional seniority is fixed in the order of length of continuous service rendered by them and their position in the region where they are now working is not maintained, not only would it be at the cost of those DSOs who are already working in that region/state, but it would be giving to the applicants what they themselves of their own unfettered volition had agreed in writing to forgo *directly*, as a condition precedent to their transfer, which is impermissible. Shri Bahera has sought to find support from the rulings in W. Krishna Iyer Vs. UOI 1990(12)ATC 883 and N.B. Kavirappa Vs. Dt. Judge Mysore 1987 (3) SLJ 4, but the facts in those cases are clearly distinguishable from the facts of this case, because in neither of those cases had the applicants of their own free will agreed to count their seniority from the date they joined their new State/Region and forgo their claim for confirmation/promotion in the State/Region from which they had been transferred. Hence those cases do not help the applicants.

7. In the result, we see no good reason to interfere with the impugned orders. This application fails and is dismissed. No costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member(J)

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