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Central Administrative Tribunal
Principal Bench

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O.A. No. 88/91

New Delhi, this the 11th day of October, 1995

Hon'ble Dr. R.K. Saxena, Member (J)
Hon'ble Sh. K.Muthukumar, Member (A)

S.C. Sharma,
B-2/422/Muna Vihar,
Delhi- 110 053.

...Applicant

(By Ms. S. Janani, Advocate)

Versus

1. Union of India through
Ministry of Defence,
Director General Res. & Dev.
Directorate of Personnel (Para-9),
Sena Bhawan,
'B' Wing, New Delhi- 110 011.
2. Director
Defence Scientific Information and
Documentation Centre,
Mataclafe House,
Delhi- 110 054.
(By Sh. B.K. Sunj proxy for Sh.M.M. Sudan, Advocate)
3. B.K. Balhota,
Senior Proof Reader,
Defence Scientific Information
and Documentation Centre,
Mataclafe House,
Delhi- 110 054.
(By Shri H.P. Singh, Advocate)
4. Shri S.P. Rawat,
Chargeman,
Grade-II
Defence Scientific Information &
Documentation Centre, Mataclafe House,
Delhi- 110 054.
(In person) ...Respondents

ORDER (Oral)

By Hon'ble Dr. R.K. Saxena, Member (J)

This O.A. has been moved challenging the orders dated
23rd October, 1990 (Annexure VIII) and dated 14th November,
1990 (Annexure IX) regarding the seniority in the
department.

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The case of the applicant is that the seniority list of the applicant as well as ^{of 2} respondents No. 3 & 4 was firstly published on 25.5.1983. Annexure IV dealt with seniority list of Group-I Industrial Staff for promotion to Chargeman Grade II and in this seniority list, the applicant was shown at serial No. 2 whereas the respondent No. 4 was shown at serial No. 6. As regards respondent No. 3, a separate seniority list of Grade-II Industrial employee for promotion to the post of Grade-I was published and he was shown at serial No. 1. It is contended that these two seniority lists were neither objected to by the applicant nor by the respondents No. 3 & 4. The problem arose when the seniority list for higher post was published amalgamating the employees from feeder pavements. It was at that stage that the earlier seniority was given a go-bye, and in this connection it appears that respondents No. 3 & 4 had represented the department which resulted in the impugned orders i.e. annexures 'VIII' & 'IX'. On the basis of these orders, the applicant who was senior in the year 1983 to the respondents No. 3 & 4, was made junior. Hence this O.A.

The impugned orders of seniority (Annexures 'VIII' & 'IX') have been affirmed in the replies filed by the official as well as private respondents.

During arguments, it is transpired that the applicant approached the Tribunal without submitting any representation to the concerned authorities in the department. The learned counsel for the applicant who ~~withdrew~~ ^{has} our attention towards Annexure 'X', ~~but~~ ^{has} fairly conceded subsequently that it was not a copy of the representation but the copy of application whereby the applicant had demanded certain documents to go to Court against the

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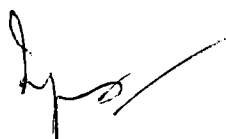
the seniority list. It is, however, clear that no representation was made by the applicant before the concerned authorities, ^{and thus} the bar in approaching the Tribunal operates. The applicant is, however, prepared to make representation to the authorities concerned if an opportunity is made available and the point of limitation is not raised.

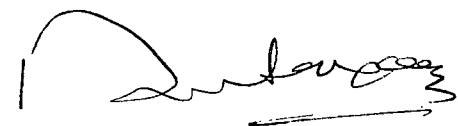
It is also transpired during arguments that the orders about challenging seniority between the applicant and the respondents were passed off ~~and on~~ without giving an opportunity to other employees. The impugned orders i.e. Annexure 'VIII' & 'IX' appear to have been passed on the representations made by the respondents No. 3 & 4 ~~which~~ ^{and also} having been challenged by the applicant. What is required is that whenever there is any change in seniority, the employees who are likely to be affected, should be given an opportunity of hearing. In the absence of such a procedure to be adopted the final order passed shall suffer from arbitrariness. We find that the impugned orders i.e. annexures 'VIII' & 'IX' have been passed not keeping the principle of natural justice in mind and thus they are likely to be quashed unless a remedial step is taken by the respondents on the basis of the representations to be made by the applicant and probably by other affected employees. We, however, make it clear that the observation made in this order shall not affect the applicant or respondents No. 3 & 4 in making their representations/objections and respondents No. 1 & 2 in decision-making process.

The matter is pending for long about determination of seniority. We, therefore, direct the applicant to make the representation within two weeks. The respondents No. 1 & 2 shall take decision in the light of the rules, regulations

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and circulars on the subject ^{made or} passed from time to time. g3
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They shall also take into consideration the objections to be made by respondents No. 3 & 4 in particular and other aggrieved employees in general. The respondents No. 1 & 2 then decide the seniority within a period of eight weeks from the date of receipt of the representation from the applicant. The result of the decision taken on representations and finality being given to the seniority of the concerned employees, shall be communicated to the concerned employees, particularly the applicant and the respondents No. 3 & 4 by a reasoned order within ten days thereafter. The applicant or the respondents No. 3 & 4, if feel aggrieved by the order passed on the representations, shall be at liberty to approach the Tribunal. The O.A. is therefore, dismissed accordingly with no orders as to cost.


(K. Muthukumar)
Member (A)


(Dr. R.K. Saxena)
Member (J)

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