

19

Central Administrative Tribunal
Principal Bench, New Delhi.

OA-2295/2004

New Delhi this the 7th day of June, 2006.

Hon'ble Mr. Shanker Raju, Member(J)
Hon'ble Mrs. Chitra Chopra, Member(A)

Sh. Ram Karan, (Driver)
S/o late Sh. Mohar Singh,
R/o 1020, Gulabi Bagh,
New Delhi.

.... Applicant

(through Sh. J.M. Kalia, Advocate)

Versus

1. Govt. of NCT of Delhi through
Chief Secretary,
5- Sham Nath Marg,
New Delhi-54.
2. The Divl. Commissioner/Secretary
(Revenue), 5 – Shamnath Marg,
Delhi-54.
3. Sh. Om Prakash,
S/o Sh. Babu Ram,
R/o 1447-(Type-II) Gulabi Bagh,
(DAD Flats), New Delhi.

.... Respondents

(through Mrs. P.K. Gupta, Advocate)

Order (Oral)

Hon'ble Mrs. Chitra Chopra, Member(A)

By virtue of present O.A, applicant Ram Karan, aggrieved by final seniority list of L.M.V. Drivers, has sought revision of his seniority and consequential promotion to Grade-I Driver. His contention is that revision of seniority to his detriment has resulted in a grave miscarriage of justice.

2. The factual position as submitted by the learned counsel for the applicant is briefly as under:-

The applicant initially joined the services in the office of Supdt. Senses, Delhi Administration as Peon. He was appointed as Driver

Chitra Chopra

in the pay scale of Rs. 110-139/- w.e.f. 3.5.1966 and w.e.f. 5.11.1975, the applicant along with some other employees were appointed substantively as driver in the office of Divisional Commissioner, Respondent No.2. As per the seniority list of Staff Car Driver dated 30.6.1981 (Annexure A-1) the name of the applicant appears at Serial No. 13 whereas the names of Respondent Nos. 3 & 4 (S/Sh. Attar Singh and Om Prakash) respectively were below to him at Serial No. 16 & 17 respectively. Subsequently, vide Notification dated 21.2.1997 issued by the office of Respondent No.2 (Divisional Commissioner)(Annexure-A3), another tentative seniority list of Staff Car Driver was issued wherein the names of Respondents No. 3 & 4 were put above to that of applicant in a most arbitrary and oppressive manner.

3. Being aggrieved by the said seniority list of L.M.V. Drivers, the applicant filed objections but without considering the objections in his representation, respondents No. 3 & 4 (S/Sh. Attar Singh and Om Prakash) were promoted to Grade-I Driver vide Notification dated 27.6.1997 (Annexure-A6) whereas the applicant was promoted to Grade-II. Aggrieved by the impugned Notification dated 21.2.1997 i.e. seniority list of L.M.V. Drivers as on 31.12.1996 and the promotion of Respondents No.3 & 4 Attar Singh and Om Prakash respectively superceding the seniority of applicant vide Notification dated 27.6.1997, the applicant filed OA-150/1999 which was allowed vide order dated 8.3.2001 (Annexure-A8) holding that the applicant is senior to the respondents No. 3 & 4 having been made permanent w.e.f 5.11.1975. It was also held by the Tribunal that as now the final seniority list has been published, the applicant would be at liberty to assail the same along with the other grievances as stated in the O.A.

4. Pursuant to the above order of the Tribunal, the applicant represented to the Department requesting them to correct seniority list by refixing his seniority vis-à-vis Respondents No.3 and 4 namely Attar Singh and Om Prakash and put

his name above them and grant him promotional benefits with retrospective effect. The department, however, did not incorporate the necessary rectification in the seniority list. His representation has still not been disposed off by the department nor he has got relief that he was seeking both by way of seniority and consequential promotion.

5. In the counter-affidavit, it has been explained that the applicant Ram Karan was appointed w.e.f. 3.5.1966 in a purely temporary capacity on ad hoc basis and he was made regular w.e.f. 1.11.1972 whereas Attar Singh and Om Prakash were made regular w.e.f. 6.2.1971 and 12.2.1971 respectively. In fact, as per letter dated 24.11.1976, applicant was declared permanent w.e.f. 5.11.1975 against permanent lien free post. As such, due to consideration of the above dates of regular appointment of Attar Singh and Om Prakash, they are senior to the applicant. It is further stated that the seniority is invariably assigned on the basis of regular selection and not according to the date of confirmation. The earlier seniority list dated 30.6.1981 was tentative and not the final list. It has also been submitted that ad hoc service rendered by the officials and any one else cannot be taken into consideration for inclusion of names in the seniority list unless appointment on regular basis is made. The objections submitted by the petitioner were considered and rejected on the very same ground. Accordingly, in the final seniority list the names of Attar Singh and Om Prakash had been shown as senior on the basis of their dates of regular appointment.

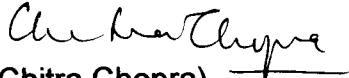
6. We have heard the rival contentions of the parties and perused the material placed on record.


7. The issue in this O.A. is very simple. Seniority can be assigned only with regard to date of regular selection of an employee. It is also well settled that ad hoc appointment does not confer any benefit or any right in the matter of seniority. The position in regard to assignment of seniority and consequential promotion of the applicant has been clearly explained in the counter-affidavit of

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the respondents. It is apparent that there is no illegality or infirmity in assignment of seniority to the applicant or in consequential promotion which has been given to him on the basis of his seniority and after due process of selection.

8. In this view of the matter, we find no merit in the claim of the applicant and accordingly the present O.A. is dismissed. No costs.


(Chitra Chopra)
Member(A)


(Shanker Raju)
Member(J)

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