

CENTRAL ADMINISTRATIVE TRIBUNAL
DELHI.

Application No. 23/85.

Shri H.P. Sinha and
Smt. Saroj Jain

...

Through Shri Madan Lokur,
Advocate.

VERSUS

Union of India and
Central Hindi Directorate

...

Through Smt. R.K. Chopra,
Additional Standing Counsel.

CORAM

Shri Justice K. Madhava Reddy, Chairman.

Shri Kaushal Kumar, Member.

1. Whether Reporters of local papers
may be allowed to see the judgment?

Yes

2. Whether to be referred to the
Reporter?

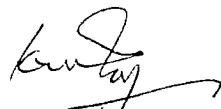
Yes

3. Whether to be circulated to all
Benches?


Yes

4. Whether fair copy to be typed for
perusal?

No


(K. Madhava Reddy)
CHAIRMAN

4.3.1986.


(Kaushal Kumar)
MEMBER

4.3.1986.

CENTRAL ADMINISTRATIVE TRIBUNAL
DELHI.

Regn. No. 23/85.

4th March, 1986.

Shri H.P. Sinha and
Smt. Saroj Jain

....

Petitioners.

VERSUS

Union of India and
Central Hindi Directorate

....

Respondents.

CORAM

Shri Justice K. Madhava Reddy, Chairman.

Shri Kaushal Kumar, Member.

Petitioners

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Through Shri Madan Lokur,
Advocate.

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Through Smt. R.K. Chopra,
Additional Standing Counsel.

(Judgment of the Bench delivered by
Shri Justice K. Madhava Reddy, Chairman)

In this petition under Section 19 of the Administrative Tribunals Act, 1985, the short question that calls for consideration is whether the final Seniority List drawn up pursuant to the judgment dated 23rd June, 1983 of the Delhi High Court in Smt. Saroj Jain & others Versus Union of India & others (Civil Writ No. 329 of 1978) is in accordance with the rules and in conformity with the said judgment. Recruitment to the posts of Research Assistants was partly direct and partly by promotion. Under the draft recruitment rules, which were in force upto 1963, the ratio of direct recruits to promotees was 3:1 and pending finalisation of the recruitment rules, ad-hoc promotions and appointments were made. The recruitment rules were ultimately finalised and enforced with effect from 24.6.1963. According to these rules, 90% of the vacancies in the posts of Research Assistants were to be filled up by direct recruitment and 10% by promotion. In the seniority list drawn up by the Government for entrants prior to 24.6.1963, the ratio of 3:1 was maintained and for the later entrants the ratio of 9:1, as per the 1963 Recruitment Rules, was followed.

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2. While no objections were filed by the direct recruits to the draft seniority list circulated by the Government in which the seniority of all officers in the Directorate was shown on the basis of the ratio of 9:1, as per the 1963 Recruitment Rules, promotee Research Assistants raised objections. Rejecting their objections, the draft seniority list of 1972 was finalised and issued. Another seniority list was drawn up by the Government in 1973, 1974 and 1978 ignoring the service rendered by the promotees prior to 24.6.1963 in fixing their seniority and computing only that period of the service as was rendered by them subsequent to 24.6.1963 in assigning them their rank in the ratio of 9:1. Claiming that the ratio of 3:1 should have been adhered to upto 24.6.1963 when the Recruitment Rules were finalised and that their entire period of service, ad-hoc, officiating, temporary or otherwise, should be counted in fixing their seniority, the promotee Research Assistants filed a Writ Petition No. CWP-329/1978 in the Delhi High Court. The Delhi High Court, in disposing of that Writ Petition, upheld the contention of the petitioner that their promotion "could not, therefore, be treated as non-est for the purpose of assigning appropriate seniority" in the promotions made under the draft Recruitment Rules, but did not accept their further contention that notwithstanding the enforcement of the Recruitment Rules on 24.6.1963, which fixed ratio of direct recruits and promotees at 9:1, the ratio of 3:1 envisaged by the draft Recruitment Rules should be adhered to. While rejecting the contention of the petitioner therein that the ratio of 3:1 embodied in the draft Recruitment Rules should be given effect to, the Court finally held "By giving to the promotees the benefit of the service rendered prior to the enforcement of the Rules of 1963, even though in the reduced ratio of 9:1, embodied in the Rules of 1963, Government appear to have struck a reasonable balance between the conflicting claims. This was, however, unjustifiably

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K. S. J.

disturbed by the subsequent lists, including the list of 1978 and the denial to the promotees of the benefit of service prior to the enforcement of the Rules of 1963 was neither just nor fair." In view of the said two findings, it arrived at, the Delhi High Court quashed the seniority lists of 1973, 1974 and 1978 and directed that the seniority list be finalised in the light of the observations made in the judgment after giving an opportunity to the direct recruits as also the promotees.

3. Thus, from the judgment of the Delhi High Court, which has become final and is binding both on the promotee Research Assistants and the direct recruits and the Government as well, in drawing up the seniority list, the Government in assigning them their rank was bound to maintain the ratio of 9:1 between the direct recruits and the promotees fixed under the 1963 Recruitment Rules and also give credit to the entire period of service rendered by the promotees prior to the enforcement of 1963 Recruitment Rules, irrespective of whether it was ad-hoc, officiating, temporary or otherwise. What all has, therefore, to be considered now in this petition is whether in drawing up the impugned seniority list, these twin principles have been violated. So far as giving an opportunity to all the parties to make their representations is concerned, the direction of the Delhi High Court has been fully complied with and the petitioners have no grievance on that score. A draft seniority list was once again prepared and circulated to all concerned; objections were invited and after taking into account all the representations and objections, the impugned seniority list was finalised.

4. Both the parties to this petition were present in person. They were also represented by their learned counsel Shri Madan Lokur. It was stated by the parties in person that their entire service has been taken into account in assigning them their rank in the seniority list. Their only grievance is that the ratio of 9:1 was adhered to. According to them, the High

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Court had, while disposing of the earlier Writ Petition directed that in determining the seniority for the period prior to 24.6.1963 i.e., for the period when the draft Recruitment Rules were in force, the ratio of 3:1 should have been followed. It is urged that in paragraphs 14 and 15, the High Court had so directed.

5. We have carefully gone through the entire judgment and in particular paragraphs 14 and 15 and we do not think that there is any such finding or direction. What is held therein is that although the rules were not finalised and only draft rules were being followed under which the ratio of 3:1 was envisaged, the promotions made thereunder could not be taken as non-est for the purpose of assigning the promotees appropriate seniority after giving credit for that period of service. In the judgment it was not held that the ratio of 3:1 envisaged under the draft rules was binding and could not be altered when the draft Rules were finalised. In paragraph 14, only the question whether the promotions could be treated as non-est and whether the service rendered when the draft rules were in force was to be counted or not, was considered and held in favour of the promotees. The question whether the ratio envisaged in the draft rules could be altered under the Recruitment Rules enforced on 24.6.1963 was specifically discussed in the subsequent paragraphs and in paragraph 17, the Court clearly held that in reducing the ratio of the promotees from 3:1 to 9:1 "the Government appear to have struck a reasonable balance between the conflicting claims". No portion of the judgment can be read in isolation. What emerges from reading of the entire judgment is while the promotees will get the benefit of their entire period of service irrespective of whether it was rendered prior to 24.6.1963 or thereafter and irrespective of whether it was ad-hoc, officiating or temporary, the ratio of 9:1 as enforced by the 1963 Recruitment Rules will have to be adhered to in drawing up the seniority lists. As these two directions of the Delhi High Court have been fully complied with,

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we find no ground to disturb the seniority list. This petition, therefore, fails and is accordingly dismissed, but, in the circumstances, without costs.


(K. Madhava Reddy)
CHAIRMAN

4.3.1986.


(Kaushal Kumar)
MEMBER

4.3.1986.