

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA No. 1816/92

New Delhi this the 23th day of January, 1998

(21)

Hon'ble Shri S.R.Adige, Vice Chairman(A)
Hon'ble Smt.Lakshmi Swaminathan, Member(J)

In the matter of

1. Sh.C.J.N.N.Nair,
Assistant(Offg.)
Department of Education,
Ministry of Human Resources
Development, Shastri Bhawan,
New Delhi.
2. Sh.R.K.Mishra,
Assistant (Offg)
-do-
3. Sh.Mariamma Samuel
Assistant(Offg)
-d0-
4. Sh.K.Satya Kumar,
Assistant(Offg.)
-d0-
5. Sh.T.KGoshal,
Assistant(Offg.)
-d0-
6. Sh.Rajendra Singh,
Assistant
-d0-
7. Sh.G.K.Mukherjee,
Assistant,
Department of Education,
Ministry of Human Resource Development,
Shastri Bhawan,
New Delhi.

(By Advocate Shri C.Hari Shankar)

Applicants

VS

1. Secretary, Department of Personnel
and Training, North Block,
New Delhi.
2. Secretary, Department of Education,
Ministry of Human Resource Development,
Shastri Bhawan, New Delhi.

(By Advocate Sh.R.V.Sinha)

Respondents

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O R D E R (ORAL)

(Hon'ble Smt.Lakshmi Swaminathan, Member(J))



The grievance of the applicants in this case is with regard to the seniority list of UDCs in the Ministry of Human Resource Development (Department of Education, Culture, Arts and Youth Affairs and Sports) issued by the respondents dated 9.2.1987 (Annexure-1).

2. We have heard Shri C.Hari Shankar, learned counsel for the applicants and Shri R.V.Sinha, learned counsel for the respondents and have also perused the pleadings.

3. The main contention of Shri C.Hari Shankar, learned counsel is that it is evident from the covering letter of the impugned seniority list of 9.2.87 that this provisional seniority list has been prepared in accordance with the provisions contained in the Department of Personnel and Training O.M. dated 1.12.1986 which is based on the DOP&T O.M. No.3/1/84-CS-II dated 26.5.84. Learned counsel contends that by the Tribunal's judgment in **V.Venkitaraman and Others v. Union of India and Ors.** (TA No.1066 of 1985, CW No.2514/84) decided on 10.7.90 the OM of DOP&T dated 26.5.84 had been struck down. He, therefore, contends that the basis of the preparation of the provisional seniority list dated 9.2.87 has become invalid in terms of the Tribunal's order dated 10.7.90. Further, there is no doubt that the respondents have again issued the impugned seniority list dated 25.1.89, following the seniority list of 9.2.87. Respondents have submitted that this seniority list has been finalised after considering several representations received

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by them from the affected persons and according to them these were not very substantial. Shri R.V.Sinha, learned counsel for the respondents has also contended that the respondents have neither implemented the Tribunal's order in **V.Venkitaraman's case** (supra) nor followed the provisions of OM of DOP&T dated 26.5.84 for preparation of the impugned seniority list. Therefore, learned counsel contends that the seniority list of 9.2.87 does not require any change, apart from the fact that the OA is belated and barred by limitation.

4. After careful consideration of the pleadings and the submissions made by the learned counsel for the parties, in particular Tribunal's order dated 10.7.90 quashing the DOP&T in the circumstances of the case, OM of 26.5.84 we condone the delay. From the perusal of the impugned seniority list dated 9.2.87 followed by the 1989 seniority list, we find that the department have themselves followed the provisions laid down in the OM dated 1.12.86 by extending the provisions of the OM dated 26.5.84 which had been struck down as ultra-vires by this Tribunal in **V.Venkitaraman's case** (supra). Therefore, in the facts and circumstances of the case, we direct the respondents to recast/issue a fresh seniority list after taking into account the decision of the Tribunal in **V.Venkitaraman's case** (supra) as well as the extant rules/instructions on the subject.

OA is disposed of as above. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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(S.R. Adige)
Vice Chairman (A)