

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

NEW DELHI.

O.A.No.2138/92

(14)

New Delhi: Dated this the 13th day of February 1998

HON'BLE M.R.S. R. ADIGE, VICE CHAIRMAN (A)

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (C)

1. Laxmi Narayan,

Daftary,
PWD Zone-1,
Ministry of Urban Development,
Nimman Bhawan,
New Delhi

2. Rampal

Daftary,
PWD Zone-I,
Ministry of Urban Development,
Nimman Bhawan,
New Delhi.

3. Attar Singh, Group 'D',

PWD Zone I,
Ministry of Urban Development,
Nimman Bhawan,
New Delhi.

4. Ram Kumar, Group 'D',

C.E.Food, CWP D.,
Krishi Bhawan,
New Delhi

5. Ajay Kumar, Group 'D',

DGW,
Ministry of Urban Development,
Nimman Bhawan,
New Delhi

and

20 others Applicants.

(By Advocate: Shri Jitendra Sharma, Sr. Counsel)

Versus

Union of India,
through Secretary,
Ministry of Urban Development,
Nimman Bhawan,
New Delhi-011

2. Shri Anil Kumar

3. Shri Ram Lal

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4. Shri Ramesh Chandra
5. Shri Roshan Lal.
6. Shri Jodhpal.
7. Shri Sukhbir Singh.
8. Shri Ram Kishan Dalal,
9. Shri Partap Singh.
10. Shri Mukhtiar Singh.
11. Shri Atta Singh,

Respondents 2 to 11 are LDCs and
C/o Section Officer, E.C. VII OP UD,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi -011
... Respondents.

(None appeared).

JUDGMENT

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A)

Applicants seek promotion as LDCs maintaining
their seniority and regularisation from the date
of their initial promotion.

2. Applicants who are substantive Category 'D'
staff under Ministry of Urban Development contend
that in 1986 respondents promoted a number of
Category 'D' staff including applicants themselves
as adhoc LDC. Later, in 1987 they were reverted
to their substantive posts in 'D' category.
Thereupon some of those reverted (other than
applicants) filed OA No. 688/88 and connected
cases against their reversion and for regularisation
which was allowed by common judgment dated 12.4.91
(Annexure-A) with a direction to respondents to
regularise their services in consultation with

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SSC after evaluating their performance within three months by relaxing the age restriction, if necessary. Respondents were further directed not to revert those applicants till they were regularised and to protect their pay, allowances and other benefits admissible to regular LDCs.

3. Applicants state that in implementation of the aforesaid judgment dated 12.4.91, respondents issued office order dated 22.6.92 (Annexure-C) promoting 35 Category 'D' employees as LDCs on regular basis, but while doing so, they did not follow the seniority list and promoted even those who were junior to the applicants, which is illegal, arbitrary and against natural justice.

4. We have heard Shri J. Sharma, Sr. counsel who appeared with Miss G. Dara for the applicants. None appeared for respondents. We have perused the materials on record.

5. Respondents in reply have taken the stand that the judgment dated 12.4.91 (Supra) was applicable only to the persons mentioned therein regardless of their seniority in category 'D' and hence their action which was taken in obedience to the aforesaid judgment is strictly in accordance with law.

6. We have given the matter our careful consideration. As per Rule 12 CSCS Rules, 1962 vacancies in LDC grade are filled, 90% by direct recruitment on the basis of competitive exam. held by SSC; 5% from amongst eligible category 'D' employees through LOCE held by SSC; and 5%

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from amongst eligible category 'D' employees on the basis of seniority subject to rejection of the unfit. The number of vacancies becoming available each year is fixed, and it is beyond the Tribunals jurisdiction to direct respondents to increase it merely to accommodate the applicants. Under the circumstance applicants will have to await their turn for promotion against the quota available for them.

7. The question then arises whether after promotion as LDCs applicants will be entitled to claim their original seniority (vis a vis those promoted pursuant to the aforesaid order dated 22.6.92) in Group 'D' as per seniority list dated 20.1.87 (Annexure- B).

8. In this connection we hold that judgment dated 12.4.91 cannot be interpreted by Respondents to mean that the seniority list of Category 'D' employees could be ignored by them. It is settled law that the applicants being similarly situated as the beneficiaries of judgment dated 12.4.91 (supra), and admittedly being senior to some of the persons promoted by office order dated 22.6.92, are entitled to claim their original seniority , upon their promotion as LDCs against 5% quota. In this connection, applicants' counsel stated at the bar that the applicants would be satisfied if their original seniority in Group 'D' was protected as and when respondents promote them as LDCs.

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is partly allowed and is
Accordingly, this OA is disposed of
with a direction to the respondents that as and
when they promote the applicants as LDCs against
5% quota, their original seniority in Group 'D'
should be restored vis a vis those promoted
by Office Order dated 22.6.92, with such
consequential benefits as are admissible under
rules and instructions. No costs.

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(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)

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(S.R.ADIGE)
VICE CHAIRMAN (A)

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