

Central Administrative Tribunal
Principal Bench

(32)

O.A. 263/92

New Delhi this the 29 th day of April, 1998

Hon'ble Smt. Lakshmi Swaminathan, Member (J).
Hon'ble Shri K. Muthukumar, Member (A).

1. R.N. Sharma,
2. Yashpal Dudeja,
3. P.P. Singh,
4. A.K. Asnani,
5. S.P. Ali

(all working as Assistant Engineers (Civil)
in Irrigation and Flood Control Department
of Delhi Administration, Delhi) ... Applicants.

By Advocate Shri R. Venkatramani, Sr. Counsel with Shri
S.M. Garg, counsel.

Versus

1. Delhi Administration,
through its Chief Secretary,
5, Shamnath Marg,
Delhi.
2. The Secretary (Irrigation & Floods),
Delhi Administration,
5/9, Under Hill Road,
Delhi.
3. The Chief Engineer (Irrigation & Floods),
Delhi Administration,
4th Floor, ISBT Building,
Kashmere Gate, Delhi.
4. Shri V.K. Jain,
Asstt. Engineer (Civil),
Irrigation and Floods Control Department,
Delhi Administration, Delhi.
5. Shri Narendra Kumar Sharma,
Asstt. Engineer (Civil),
Irrigation and Floods Control Department,
Delhi Administration, ... Respondents.
Delhi.

By Advocate Shri Rajinder Pandita for official respondents.
By Advocate Shri Jog Singh, for private respondents.

Y.S.

ORDER

(B)

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

The applicants who are working as Assistant Engineers (AEs) (Civil) with the respondents, have impugned the seniority list dated 1.1.1992 issued in supersession of the seniority list dated 1.6.1990.

2. The applicants joined the Irrigation and Flood Control Department - Respondent 2 between 22.6.1970 and 1.3.1973. They state that the applicants 1-4 were promoted on regular basis as Assistant Engineers (Civil) on 27.9.1983 and applicant No. 5 was promoted on ad hoc basis to the said post. They have impugned the seniority list of 1.1.1992, inter alia, on the ground that the quota rota rule has broken down and the recruitment rules of 1973 as amended have not been adhered to. They have, therefore, claimed that the principle of fixation of inter se seniority between direct recruits and promotees should be based on continuous officiation. They claim that the respondents ought to have followed the procedure laid down in DOP&T O.M. dated 7.2.1986 which provides the principle for determination of relative seniority of direct recruits and promotees when adequate number of direct recruits were not available in any year. According to them, since no direct recruits were available between the period from June, 1983 to January, 1986, as respondents 4 and 5 were appointed only in the year 1986 much after the promotion of the applicants, the official respondents were obliged to follow the procedure as prescribed in O.M. dated 7.2.1986. Shri Venkatramani, learned senior counsel, has submitted that in accordance with the O.M. dated 7.2.1986 which came into effect from 1.3.1986 seniority

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already determined in accordance with the existing principle on the date of issue of the order should not be reopened. He has submitted that in the seniority list dated 1.6.1990 the position of Assistant Engineers was shown on the basis of the date of promotion in the grade on regular basis or the date of appointment by way of direct recruitment. The applicants have submitted that they had made representations against the seniority list dated 16.10.1984 and the respondents, according to them, having realised their mistake had issued the seniority list dated 1.6.1990. In the list of 1990 the respondents have adopted the mode of fixation of seniority on the basis of the date of promotion and/or date of appointment by way of direct recruitment which the applicants claim is the correct principle. This seniority list was, however, superseded by the impugned seniority list of 1.1.1992.

3. The respondents in their reply have controverted the above averments. They have submitted that the quota rules have never been broken down and direct recruitment of AEs has been made through UPSC from time to time as per the relevant recruitment rules. They have submitted that the tentative seniority list of AEs was circulated on 1.6.1990 which was prepared in accordance with the Government of India DOP&T O.M. dated 7.2.1996 which was, however, not applicable for determining the seniority of persons appointed prior to 1.3.1996 or for whose appointments, action has been taken as clarified in para 7 of the O.M. The tentative seniority list of 1.6.1990 was, therefore, superseded. According to them, the impugned seniority list has been prepared in accordance with the rules and instructions. They have also submitted that in other similar

case S.D. Sharma & Ors. Vs. Delhi Administration & Ors.

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(O.A. 1456/91), the Tribunal has by order dated 24.5.1996 upheld the seniority list dated 1.1.1992. Shri Rajinder Pandita, learned counsel, had also confirmed during arguments that the judgment of the Tribunal has been upheld by the Supreme Court, rejecting SLP by order dated 9.10.1996. The judgement in **S.D. Sharma's case (supra)** has been followed in another similar case **S.K. Sharma Vs. Delhi Administration and Ors.** (O.A. 39/92) decided on 24.5.1996. As regards appointment of Respondents 4 and 5 who are direct recruits, they have submitted that action for their appointment was initiated long back after the amendment of recruitment rules in 1973. In the circumstances, the respondents have submitted that the applicants have no case and the O.A. may be dismissed. We have also heard Shri Jog Singh, learned counsel for Respondents 4 and 5.

4. We have also seen the rejoinder filed by the applicants. We have carefully considered the pleadings and the submissions of the learned counsel for the parties.

5. In the/of **S.D. Sharma & Ors. (supra)**, the Tribunal has come to the conclusion that there is no break down of quota rota rule as contended by the applicants. They have also upheld the validity of the impugned seniority list of 1.1.1992. We are in respectful agreement with the reasons given therein and we find no infirmity in the impugned seniority list which warrants any interference in the matter especially when the Hon'ble Supreme Court has also approved the earlier judgement of the Tribunal. This case has also been followed in **S.K. Sharma's case (supra)**. DOP&T O.M. dated 7.2.1996 has also been dealt with in these judgements.

In **S.D. Sharma's case (supra)** after analysis of the relevant

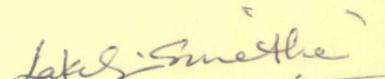
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recruitment rules of 1980 and the principles which have been applied for finalising the seniority list dated 1.1.1992, the Tribunal upheld that list. It was held as follows:

"....the applicants cannot be permitted to count their period of ad hoc promotion towards seniority as it would be in excess of their quota and against the vacancies of deputationists in 1979.....We are satisfied that there was no inaction or inertia on the part of the administration and there had been no deviation in implementing the quota as prescribed in the 1980 Rules. The Direct Recruits, in these circumstances, were clearly entitled to assignment of seniority against their respective slots on the basis of rotation prescribed in the 1965 Seniority Rules".

6. In the result, for the reasons given above, we find no merit in this O.A. The same is accordingly dismissed. No order as to costs.


(K. Muthukumar)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

SRD