

Central Administrative Tribunal
Principal Bench: New Delhi

CP No. 169/99

in
OA No. 2409/92

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New Delhi this the 2nd day of March 2001.

Hon'ble Shri S.R. Adige, Vice Chairman, Vice Chairman(A)
Hon'ble Dr. A. Vedavalli, Member (J)

1. S. Raghothaman,
S/o Late Shri N.S. Rao,
R/o H-513, Kali Bari Marg,
New Delhi-110 001.
2. Nister Toppo,
S/o Late Shri Jowachim Toppo,
R/o F-227, Nanak Pura,
New Delhi-10 021.
3. Gopal Chandra Mail,
S/o Late Shri Panch Keri Mail,
R/o 43-H, Aram Bagh,
Panchkuain Road,
New Delhi-110 055.
4. Om Prakash,
S/o Shri Daya Ram,
R/o 42-H, Sector IV,
Pushp Vihar,
New Delhi-110 017.
5. M.K. Sarkar,
S/o Late Shri S.C. Sarkar,
R/o BG-5/A/39-B, Paschim Vihar,
New Delhi-110 063.
6. Smt. Suresh Singhal,
W/o Shri Ravinder Singhal,
R/o WZ-13, Sadh Nagar, Palam Colony,
New Delhi-110 045.
7. Smt. Asha Pani,
W/o Suresh Kumar,
R/o 9277/6, Multani Dhanda,
Paharganj, New Delhi-110 055. ... Applicants

(Applicant present in person)

Versus

1. Union of India through
Dr. Narayan,
Secretary to the Government,
Ministry of Industry,
D/o Industrial Development,
Udyog Bhawan, New Delhi-110 011.
2. Shri A.E. Ahmad,
Controlier General of Patents,
Designs and Trade Marks,
Central Building, 101 M. Karve Road,
Mumbai-400020. ... Respondents

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(Departmental Representatives, Shri S.K. Pal, Asstt. Controller of Patents & Designs, Shri S.M. Chandra, Office Superintendent, and Sri Amal Bendu Roy, Assistant)

ORDER (Oral)

Hon'ble Shri S.R. Adige, Vice Chairman, VC (A)

This C.P. had come up on first call in the forenoon today at which point of time applicant Shri Raghothman as well as respondents counsel, Shri N.S.Mehta was present. As this C.P. had been coming up ^{repeatedly} ~~separately~~ and it requires detailed hearing, we had stated in the presence of both sides that we would take it up at the end of the second call and had requested Shri Mehta to be available to make submissions on behalf of respondents. However, when the case was called for hearing at the end of the second round in the afternoon, we were informed not even by any proxy counsel but by the clerk of Shri Mehta that Shri Mehta had left the premises of the Tribunal because of certain personal difficulties. We must record that we do not appreciate such conduct. When we ^{had} specifically requested Shri Mehta to be present at the time of hearing of the case, he being an officer of the Court could atleast have apprised the court that he was compelled to leave the premises because of personal difficulties, before actually doing so. However, as the departmental officers ^{were} ~~was~~ present, we took their ^{assistance} ~~assertion~~ during hearing of the C.P.

2. Applicants S/Shri S. Raghothaman and Om Prakash, both of whom ^{were} ~~was~~ present, have alleged that the Tribunal's order dated 4.3.98 in OA-2409/92 has

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still not been implemented in letter and spirit by the respondents. In that OA the applicants had sought a direction to respondents to make promotions within Group 'C' from Group 'C' to Group 'B' on the basis of all India seniority list of employees.

3. Respondents in their reply to the OA had not denied that a provisional all India seniority list of Group 'C' employees was prepared, but they had stated that because of resistance from the staff members of the Headquarters, Calcutta, the said provisional seniority list could not be finalised. As resistance from a certain sections of the employees was not sufficient ground to warrant non-finalisation of the seniority list, by our order dated 4.3.1998 in the OA, we had directed respondents to finalise the all India seniority list of Group 'C' employees as early as possible and in any event within six months from the date of receipt of a copy of that order and to make promotions on the basis of the aforesaid list in accordance with rules and instructions on the subject.

4. Thereafter, respondents had prepared a seniority list of Group 'C' employees as on 11.3.1998, but the applicants had taken objections to the same, and had pointed out that respondents were required to finalise the seniority list as on 1.1.1989.

5. Pursuant to the above respondents have prepared a seniority list, which has been annexed with their affidavit dated 18.10.2000.

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6. The main objections raised by Shri S/Shri Raghothaman and Om Prakash to this list are that while they are at Serial Nos. 6 and 35 of the list of UDCs, one Shri R.C. Karmakar who is at Serial No. 39 of that list and is therefore junior to them, has been promoted as Administrative Officer since 1.8.1997.

7. The departmental representatives, on the other hand, informs us that there are four posts of Administrative Officers in the Organisation, three of which are to be filled through deputation and one post through promotion. Against the post to be filled up by promotion, one Shri Jayaraman, Technical Assistant, has assumed charge as Administrative Officer on 14.2.200, as Shri R.C. Karmakar is stated to be on leave.

8. In this connection, we have been shown a copy of respondent's Memorandum dated 19.2.2001 informing Shri Karmakar that respondents have moved for creation of a supernumerary post in the cadre of Administrative Officer against which Shri Karmakar will presumably be adjusted and if he is not agreeable to the same, he shall be deemed to be reverted to the post of Administrative w.e.f. 14.2.2001.

9. We further note that Shri Karmakar himself will retire on superannuation barely two months hence i.e. 30.4.2001.

10. It is well settled that disputed questions of seniority and promotions cannot be decided through contempt proceedings, which are

essentially to ensure that the majesty of law is maintained and that no party deliberately and wilfully flout court's orders. 52

11. During the course of hearing Shri Raghothaman has also challenged the promotion of Shri Jayaraman as Administrative Officer on the ground that he was a Technical Assistant and therefore could not have been promoted in the general cadre of Administrative Officers. The Departmental Representative however referred to certain instructions according to which isolated posts were to be grouped together for the purpose of providing promotional opportunities and they state that Shri Jayaraman, Technical Assistant was promoted as Administrative Officer in the light of those instructions.

12. If Sarvashri Raghothaman and Om Prakash have any specific grievances regarding the promotion of Shri Jayaraman or Shri karmakar as Administrative officer, it will be open to them to challenge those promotions separately in accordance with law, if so advised. Giving liberty to applicants. CP is dropped. Notices discharged.

13. Let a copy of this order be sent to both parties.

A. Vedavalli
(Dr. A. Vedavalli)
Member (J)

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