

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH,

NEW DELHI.

OA.No.2011/93

Dated this the 1st of February, 1996.

Hon^{ble} Shri S.R. Adige, Member(A)

Hon^{ble} Dr. A. Vedavalli, Member(J)

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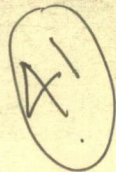
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Shri P.H. Ramchandani counsel for official respondents
respondents.
Shri R.K. Kamal, counsel for private respondents(5&6)

O R D E R (Oral)
(By Hon'ble Shri S.R. Adige)

We have heard the applicant Shri T.R. Mohanty
as well as Shri P.H. Ramchandani, counsel for
official respondents and Shri R.K. Kamal, counsel for
private respondents No.5 and 6 at considerable length.

2. In this OA, the applicant has sought for a
direction to R1 to quash para-2 of the promotion order
dated 2.4.93 (Annexure-9) and to refix the inter se
seniority of the Grade III Officers of the Indian
Statistical Service on the basis of the old Grade IV

inter-se-seniority as per various instructions of Government and on the basis of the judgement in Virpal Singh Chauhan Versus Union of India (AIR 1987 (2) CAT 71.

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3. In the OA, 18 persons have been impleaded as private respondents.

4. Shortly stated, the applicant's case is that he is senior to ^{the 18 private respondents,} (all of whom belong to SC/ST community) in the Indian Statistical Service Grade IV and promotions from Grade IV to Grade III are to be made strictly in order of seniority, subject to rejection as 'unfit' as per the Recruitment Rules, but by para-2 of the promotion order dated 2.4.93, ^{the} official respondents have made ^{the} 18 private respondents senior to the applicant, which is contrary to law.

5. During the course of hearing, Shri P.H. Ramchandani has drawn our attention to the fact that the said promotion order dated 2.4.93 has been superceded by a revised order dated 4.1.96, a copy of which has been filed with the additional affidavit dated 25.1.96. We note that the said promotion order dated 4.1.96, has in effect, substantially revised the earlier order dated 2.4.93 and as many as 15 out of ^{the} 18 SC/ST personnel who had been shown senior to the applicant in the earlier order dated 2.4.93 are now no longer shown senior to him. On the other hand, 3 persons who were not shown senior to the applicant in the earlier order dated 2.4.93 and hence were not impleaded by him, ^{are} ~~were~~ now shown senior to him in the revised order dated 4.1.96.

6. On the point whether we can dispose of the OA on merits without giving the 3 persons mentioned above who have not been so far impleaded, an opportunity of being heard, Shri Mohanty persuasively pleaded that what he was seeking was only a declaration in principle that by making promotions from Indian Statistical Service Grade-IV to Grade-III in accordance with the recruitment rules, no deviation from the seniority principle was permissible. He argued that he was not seeking any order against any private respondents in particular, and in this connection, stated that the order dated 4.1.96 itself stated that the promotions contained therein would be subject to the outcome of the present OA as well as certain other OAs. 51

7. Hence he urged that there should be no difficulty for the Tribunal in adjudicating on the principle mentioned above, without having the need to implead the above 3 persons. He sought to fortify his arguments with the Hon'ble Supreme Court judgement in Vir Pal Singh Chauhan's case supra.

8. We have considered his contentions carefully. We note that the applicant had himself impleaded 18 private respondents in respect of the impugned order dated 2.4.93, and now consequent to the revised order dated 4.1.96, as many as 15 out of them are no longer shown as senior to him, and thus, he has no grievance against them. On the other hand, 3 persons who were not shown as senior to him in that order and hence were not impleaded by him at that

time, are now senior to him in the revised order dated 4.1.96, and we are firmly of the view that for the very reasons that the applicant had impleaded those 15 private respondents then, he would be required to implead the 3 fresh private respondents now. The applicant has also recognised that, having regard to the principles of natural justice, it is appropriate that all the persons likely to be affected be given an opportunity of being heard before the OA is disposed of on merits. The applicant accordingly prays for 2 weeks time to file a fresh OA in regard to the new situation that has developed, after he had filed the earlier OA, particularly the issue of the revised order dated 4.1.96.

9. In this connection, the applicant submitted that he had filed 2 MAs, one bearing No.1737/95 and the other bearing No.1806/95. MA.1737/95 is for finalisation of the draft seniority list dated 27.1.93 at an early date. We note that in reply to that MA, the official respondents had themselves sought 3 months time w.e.f. 19.7.95 to finalise the, same but the applicant states that the seniority list had not ~~yet~~ been finalised as yet, probably because the objections to the same has not yet been disposed of.

10. MA.1806/95 ^{seeks} ~~has~~ a direction that no promotions be made during the pendency of the OA.

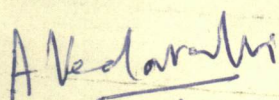
11. As the applicant will be filing a fresh OA, it will be open to him to include the above mentioned two reliefs in the OA itself. In the

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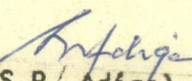
connection Shri Mohanty who has been arguing his case in person, has urged that he has been put to considerable expense in filing the documentation in respect of the present OA, apart from the difficulties he has faced in obtaining leave from office on each day of hearing. He, therefore, prays for an early adjudication in this case. We appreciate his anxiety for an earlier hearing in the matter, but by the same token, we cannot disregard the fact that the persons likely to be affected who are also Government servants like him are also entitled to be heard before this matter is finally adjudicated upon. To balance the equities, we therefore, observe that in the event that the applicant files a fresh OA impleading all the necessary and proper parties, and specifies his relief within the next week, we shall call upon the respondents to submit their reply and the applicant his rejoinder to the same within a specified time, so that, the entire matter can be finally adjudicated upon within a reasonable and fixed period of time.

12. With this end in view, the present OA will not lose its priority but would be disposed of on a high priority basis. In the light of what has been stated above, and as the applicant states that he will be filing a fresh OA, he is allowed to withdraw the present OA. No costs.

13. Issue copy of this order to all concerned parties.


(Dr. A. Vedavalli)
Member(J)

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(S.R. Adige)
Member(A)