

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA.No.2323 of 1993

New Delhi, this 8<sup>th</sup> day of January, 1998.

Hon'ble Dr Jose P. Verghese, Vice Chairman(J)  
Hon'ble Mr K. Muthukumar, Member(A)

1. Asho Ram  
S/o Late Shri Kanshi Ram  
R/o Sector-IV/607 Timarpur  
DELHI-110054.
2. Nirmal Singh  
S/o Shri Gaiinda Singh  
R/o Sector-2, Block-78  
NEW DELHI-110001.
3. R. L. Tomar  
S/o Late Shri Balbir Singh  
R/o Sector-VII/536  
R. K. Puram  
NEW DELHI-110022.
4. S. L. Khanna  
S/o Shri S. C. Khanna  
R/o KG-2/421, Vikaspuri  
NEW DELHI-110018.
5. Roop Ram  
S/o Shri Devi Ram  
R/o N-111, Sewa Nagar  
New Delhi-110003.
6. M. S. Rawat  
S/o Late Shri K. S. Rawat  
R/o D-496, Netaji Nagar  
NEW DELHI-110023.

... Applicants

By Advocate: Shri Gyan Prakash

versus

1. Union of India, through  
Secretary  
Ministry of Information &  
Broadcasting, Shastri Bhawan  
NEW DELHI-110001.
2. The Registrar of  
Newspapers for India  
West Block-8, Wing No.2  
R. K. Puram  
NEW DELHI-110066.

... Respondents

By Advocate: None.

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ORDER

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Hon'ble Mr K. Muthukumar, M(A)

Six applicants who have joined together in this application, are aggrieved that the respondents have not accepted their request for counting of service as CG-1 towards UD Grade of Central Secretariat Clerical Service (CSCS for short). They have prayed that the impugned letter rejecting their request be quashed and they may be assigned seniority in the grade of UDC of CSCS by reckoning their service in CG-1 Grade on the principle of continuous officiation.

2. Facts, briefly, are as follows:

Applicants joined as LD Clerks under Registrar of Newspapers of India (RNI) (Respondent No.2) at Shimla after being recruited through Employment Exchange. Consequent on the shifting of the Respondent No.2 to Delhi, the staff including the applicant were directed to move to Delhi alongwith their posts and they all joined at Delhi office in June 1977. It is stated that the posts of LDCs/UDCs were redesignated earlier as CG-II and CG-I respectively and that duties are the same as those of LDCs/UDCs in CSCS cadre. The question of encadrement of posts of CG-II/CG-I in the CSCS cadre had been under consideration for quite sometime, and ultimately respondents acceded to the demand of these applicants and they were inducted in CSCS and assigned seniority by placing them below the regular UDCs of CSCS cadre

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as on 17.3.88 and in the draft seniority list they were placed enbloc below the regular UDCs and the applicant no.1 who was promoted as UDC as early as in 1976, was placed below the regular UDC of CSCS who was promoted with effect from 16.7.86. So, also, the others were placed at different seniority position below regular UDCs, although they were promoted as UDCs much earlier. It is stated that, by this act, their earlier service as UDC prior to 1988 had been completely wiped out, seniority-wise. It is stated that nine other CG-II (LDCs) who were also similarly inducted in CSCS as LDCs, on their being denied seniority by not counting their past LDC service, successfully contested their claim before the Tribunal in OA.1206/89, and their seniority was accordingly revised by declaring that their continuous service as CG-II (equivalent pay scale as LDC) would count towards LD cadre of CSCS from the dates they were regularly appointed as CG-II under the Registrar of Newspapers. Following this judgment, the applicants in the present application represented that they might be given similar relief. On this request being refused, they are before us through this application.

3. Applicants main contention is that in terms of Rule 2(c) CSCS 1992, their services in CG-I grade should be reckoned as approved service in CSCS as they are in the grade as UD in CSCS and have held the posts continuously for a number of years and have also been confirmed and as per rule 17 of the aforesaid Rules, their seniority inter-se shall be regulated by the order in which they are appointed to the Grade on a

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regular basis on their promotion to this grade of CG-1 which is equivalent to UDC grade. They contend that their request has been denied in an arbitrary and discriminatory manner. They had also challenged the draft seniority list on this ground.

4. In their counter reply, the respondents have made the following submissions:-

1) The applicants in this case cannot claim the relief as was made available in the judgment of the Tribunal in OA.1206/89 as they are not similarly placed. The petitioners in the aforesaid OA were LDCs, while the applicants here are UDCs.

2) The application is also time-barred, as the application, filed in 1993, is actually against the order passed in March 1988 and their earlier representations were already rejected.

3) Before finalizing the draft seniority list, their representation had been duly considered.

4) The applicants' case was sympathetically considered and they were initially asked whether they were willing to be adjusted in some other posts outside CSCS. As none of them were willing, their request for encadrement was under consideration, and it was finally decided that in the absence of any provision in CSCS Rules to govern seniority of the applicant upon their encadrement in CSCS, the general order regarding fixation of seniority applicable in

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cases of transfer from one post to another, made on the basis of requests from the persons concerned, might be applied in the case of applicants also, and in accordance with the general order where transfer which was strictly not in public interest, the transferred officers would be placed below the officers appointed regularly to the Grade on the date of absorption.

5) It was the duty of the cadre authority in CSCS to ensure that interests of existing members of the service are protected before proceeding to admit outsiders as members of service. In order to protect the seniority of the existing members of the service, it was found imperative that the applicants upon their encadrement were placed below all regular members on date of encadrement. According to the respondents, the applicants, on their expressing willingness to be inducted in CSCS cadre of Ministry of Information and Broadcasting with their seniority being determined from the date of induction, were placed in the seniority below the regular UDCs on the date of induction, i.e. 17.3.88.

6) Their appointment as CG-I in the office of RNI was not in accordance with the terms and conditions of appointment of UDCs in the CSCS cadre. While the Recruitment Rules for the post of CG-I provide for promotion of CG-II within the minimum of five years service, for promotion in UD cadre in CSCS,

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the Rules stipulate a minimum of eight years service. On this ground, the applicants cannot be treated on par with regular UDCs in the matter of assignment of seniority on their being inducted to CSCS as a special case.

7) As per the CSCS Rules, approved service will be 'service' in the grade in CSCS and therefore the contention of the applicants that their service in the CG-1 grade should be taken as approved service in CSCS, cannot be accepted.

5. We have give our anxious consideration to the facts and circumstances of the case and rival contentions of the parties. We also heard the learned counsel for the parties and perused the records.

6. It is an admitted position that in pursuance of the decision of the respondent in consultation with Department of Personnel & Training, eight posts of Clerk Grade-I and 12 posts of Clerk Grade-II were inducted into CSCS of the Ministry of Information & Broadcasting and the applicants before us were inducted accordingly by the order of the respondent dated 17.3.88 (Annexure-C). It was made clear that they would be assigned seniority by placing them below all regular UDCs of the CSCS cadre. It is also seen that before induction to CSCS, they were in the office of RNI, whose headquarters were shifted from Shimla to Delhi, and consequently they were treated as transferred under S.R.-59 read with sl.no.19 of Appendix-11 of F.Rs. & S.Rs. and they also reported



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for duty in the office of RNI, New Delhi on 1.6.77. Now the question is whether, by virtue of this transfer and consequent transfer of staff, they can be considered to have become members of the Central Secretariat Clerical Service. Service under CSCS Rules means the Central Secretariat Clerical Service. Thus, though the transfer of others may be in public interest, the staff so transferred cannot be considered members of CSCS. No doubt, the respondents sympathetically considered their request for absorption/induction in CSCS. Before that, they also explored the possibility of inducting them in cadres outside the CSCS. As none of them were willing, their request for induction in CSCS was considered sympathetically as a special case. In other words, they have no right of induction, and there are no rules for such induction beyond the recognised rules for appointment to CSCS. It is stated that this induction was by way of relaxation of Rules by the respondents. It was made clear that the seniority would be determined on the principle on the principle governed by general orders by placing them below the regular UDCs of the CSCS on the date of induction and their willingness was ascertained and obtained before determining the seniority on the above principle. Once such case of willingness communicated is, as seen at Annexure R-7. There is no specific denial of the applicant to this averment.

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7. The contention of the applicants is chiefly on the ground that irrespective of the fact whether they belonged to any organised service or not this would not affect their claim for counting seniority in UD cadre of CSCS from the date of regular appointment in CG-1 and they seem to draw support to this from the judgment in Srichand & Ors Vs UOI (OA.1206/89). We are unable to accept these contentions. Their induction to CSCS was by way of relaxation of Rules. It is shown that the promotion of UDCs in CSCS as per Rules is from the cadre of LDCs within a minimum qualifying service of eight years, whereas the applicants were eligible under rules applicable to RNI for promotion after a minimum qualifying service of five years.


8. The judgment in OA.1206/89 supra, which was delivered in the case of petitioners in that OA, who were LDCs, cannot come to the assistance of the applicants. As rightly contended by respondents, the Tribunal in their judgment in the aforesaid case had held that continuous service which is not de hors (emphasis added) the recruitment rules should count towards seniority. Here the continuous service of the applicants for purposes of reckoning in UD cadre, is de hors the Recruitment Rules of CSCS, as they were governed when they were promoted as UDCs, under the Rules applicable to RNI.

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9. There is also force in the contention of the respondents that if the claim of the applicants is to be considered, it will prejudice the seniority of all those regular UDCs appointed under CSCS Rules.

10. We are therefore of the considered view that having obtained the induction to the regular service of CSCS by relaxation of Rules, the applicants cannot also claim the seniority on the basis of continuous service in UDC to which they were promoted under different set of Rules with different essential service qualification for such promotion and cannot claim parity with UDCs of CSCS for purposes of claiming seniority.

11. In the circumstances and in the light of the above discussions, we see no merit in this application. This application is therefore dismissed with no order as to costs.

  
(K. Muthukumar)  
Member(A)

  
(Dr Jose P. Verghese)  
Vice Chairman(J)