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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. No.281/1993.

NEW DELHI, THIS THE 26<sup>th</sup> DAY OF OCTOBER, 1998.

HON'BLE MR. JUSTICE K.M. AGARWAL, CHAIRMAN  
HON'BLE MR. R.K. AHOOJA, MEMBER (A)

Shri A.K.Sood,  
Assistant Director  
Central Electricity Authority,  
Seva Bhavan, Room No.710(N),  
R.K.Puram,  
NEW DELHI-110066.

...APPLICANT.

(BY ADVOCATE SHRI C.L. KUMAR)

versus

1. Union of India through  
Secretary, Ministry of Energy,  
(Deptt. of Power),  
Shram Shakti Bhavan, Rafi Marg,  
New Delhi.
2. Chairman, Central Electricity Authority,  
Seva Bhavan, R.K.Puram,  
New Delhi-110066.
3. Secretary,  
Department of Personnel,  
North Block, New Delhi.
4. Secretary, Union Public Service Commission,  
New Delhi.
5. Shri K.C.Chadha,  
Assistant Director,  
Central Electricity Authority,  
Seva Bhavan, R.K.Puram, New Delhi-66.
6. Shri A.H.Kulkarni
7. Shri M.R.Jeevan
8. Shri Mohd. Shamsur Ali
9. Shri Jang Bahadur
10. Shri Suresh Chander Sharma
11. Shri S.Eswaran
12. Shri D.V.Rangareddy
13. Shri Ram Prakash
14. Shri Sunil Kumar
15. Shri H.S. Shankaraiah
16. Shri Buddhadets Sarkhel

...RESPONDENTS

(Designation and address of respondents 6 to 16  
is the same as of respondent No.5)

(BY ADVOCATE SHRI N.S. MEHTA)

ORDER

JUSTICE K.M. AGARWAL:

By this O.A., the applicant wants his seniority over the respondents 5 to 16 and at S.No.200 in the combined Seniority List of Assistant Directors Gr. I/Assistant Executive Engineers issued by the official respondents.

2. Under rule 17 of the Central Power Engineering (Group A) Service Rules, 1965, (in short, the "Service Rules"), 60 per cent of the posts in the grade of Assistant Director (Engineering) or Assistant Executive Engineer of Research Officer (Engineering) are required to be filled by a competitive examination to be held by the Union Public Service Commission, (in short, the "U.P.S.C."). Accordingly by its advertisement No.52 dated 29.12.1984, the U.P.S.C invited applications for 10 posts of Assistant Directors Gr. I in the Mechanical discipline. After due process of selection, the applicant being one of the candidates for the said posts, was recommended for appointment as Assistant Director Gr.I (Mechanical) in the Central Electricity Authority, (in short, the "C.E.A"), by the U.P.S.C. by its letter dated 13.4.1985 and pursuant to this recommendation, he was duly appointed as such by order dated 19.7.1985. He joined the services on 25.7.1985. By another advertisement No.6 of 9.2.1985, applications for 60 posts of Assistant Directors in the Electrical, the Telecommunication and the Control and Instrumentation disciplines were invited by the U.P.S.C. It is alleged that the recommendations for appointment of selected candidates were made by the U.P.S.C by its letters dated 6.6.1985, 14.6.1985 and in July 1985 and that such candidates joined the Electrical and the Telecommunication disciplines in August and October, 1985. According to the applicant, the two selections made by the U.P.S.C. pursuant to two different advertisements being "independent and successive selections", the relative seniority of the candidates selected by two independent and successive selections ought to have been

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as per the guidelines contained in MHA's O.M.No.I-II/55-RPS dated 22.12.1959, which were as follows:

"4. Direct Recruits: Notwithstanding the provision of para 3 above, the relative seniority of all direct recruits shall be determined by the order of merit in which they are selected for such appointment, on the recommendations of the U.P.S.C. or other selecting authority, persons appointed as a result of earlier selection being senior to those appointed as a result of subsequent selection."

Accordingly it was claimed that his selection being earlier in point of time, the applicant was entitled to be placed above the names of all those candidates, who were appointed pursuant to subsequent selection. As it was not done and he was placed below 12 subsequently selected candidates, he filed the said O.A. for the said relief.

3. The official respondents 1 to 4 are resisting the claim of the applicant by filing a joint reply.

4. After hearing the learned counsel for the parties and perusing the record, we feel that the short question to be considered in this O.A. is: Whether there were two independent selections as claimed by the applicant, or it was one selection in two phases? The original records produced before us by the official respondents disclose and it is also asserted in the counter that there was one requisition dated 8.6.1984 for filling up 70 vacancies in the combined Mechanical, Telecommunication, Control and Instrumentation and Electrical disciplines of Assistant Directors/Assistant Executive Engineers in the office of the C.E.A. Pursuant to this requisition, it appears that applications were invited by the U.P.S.C. in two phases, i.e., one by advertisement dated 29.12.1984 and the other by advertisement dated 9.2.1985. The first advertisement dated 29.12.1984 invited applications for ten posts of Assistant Directors in the Mechanical discipline only, whereas by the second advertisement dated 9.2.1985,

applications were invited for sixty posts in other disciplines of Electrical, Telecommunication and Control and Instrumentation. It is pertinent to note that in the second advertisement dated 9.2.1985, posts in the Mechanical discipline were not invited. Had they been included, perhaps, the applicant could be said to be right in his contention that there were two different and independent selections for the posts and, therefore, on the basis of his earlier selection, he was entitled to seniority over persons subsequently selected in the second process of selection. However, as the matter stands, a common combined requisition was made by the Government for filling up seventy vacancies in all the four disciplines of Mechanical, Electrical, Telecommunication, and Control and Instrumentation, but instead of including the four disciplines in one advertisement, for one reason or the other, the U.P.S.C. first published its first advertisement for filling up ten vacancies in Mechanical discipline and, thereafter, published the second advertisement for 60 other posts in other disciplines. In this background, we are of the view that though the process of selection was one, it was conducted in two phases. In the first phase, the selection was made for ten vacancies in Mechanical discipline only. In the second phase, the selections for sixty vacancies in other disciplines were made. Under these circumstances, if the U.P.S.C. after concluding the process of selection in two phases prepared combined merit list of all the candidates selected for Mechanical as well as other disciplines, it cannot be said to have committed any error in doing so. Accordingly if the combined seniority was prepared on the basis of the combined merit list submitted by the U.P.S.C., the official respondents cannot be said to have committed any mistake in doing so. For all these reasons, the applicant cannot claim seniority over respondents 5 to 16 only on the ground that he was selected in the first phase of selection. We,

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therefore, find no merit in this O.A. and accordingly it deserves to be dismissed.

5. The learned counsel for the applicant cited before us a decision of the Supreme Court in RAM JANAM SINGH v. STATE OF U.P. AND ANOTHER, (1994) 27 ATC 166 and submitted that the date of entry in a particular service is the safest criterion for fixing the seniority. However, the Supreme Court does not say that the date of entry means the actual date of joining the service. If a number of candidates are selected by the U.P.S.C. and a person at S.No.4 in the Select List joins the service on an earlier date than the date of joining the service by the candidate at S.No.1 of the Select List, the candidate at S.No.4 in the Select List cannot claim seniority over the candidate at S.No.1 on the ground of his earlier date of joining.

6. In the result, we find no substance in this O.A. Accordingly it is hereby dismissed, but without any order as to costs.

*JK*

(K.M.AGARWAL)  
CHAIRMAN

*R.K. Ahoja*

(R.K.AHOJA)  
-MEMBER (A)