

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 377 /19 93

DATE OF DECISION : _____

HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN

HON'BLE SHRI R.K.AHOOJA, , MEMBER (A)

S.K.Vasudeva & anr.

... Applicant(s)

-Versus-

H.O.I & ors.

... Respondent(s)

Advocates :

Mr./~~Ms.~~ S.S.Tewari for Applicant(s)

~~Mr.~~/~~Ms.~~ None for Respondent(s)

1. Whether to be referred to Reporter?
2. Whether to be circulated to other Benches?

(K. M. Agarwal)
Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.377/1993.

New Delhi, this the 29th day of July, 1998.

HON'BLE MR. JUSTICE K.M. AGARWAL, CHAIRMAN

HON'BLE MR. R.K.AHOOJA, MEMBER (A)

1. S.K.Vasudeva
S/o Late Shri V.P.Vasudeva
Statistical Assistant (Adhoc)
Office of the Director of Census Operations,
Delhi, Ministry of Home Affairs,
Government of India,
Room No.207, Old Secretariat,
Delhi-110054.
2. Rajeev Sharma,
S/o Shri P.K.Sharma,
Statistical Assistant (Adhoc),
Office of the Director of Census Operations,
Delhi, Ministry of Home Affairs,
Government of India,
Room No.207, Old Secretariat,
Delhi-110054. ...Applicants.

(By Advocate Shri S.S.Tewari)

vs.

1. Union of India,
through the Secretary to the Govt. of India,
Ministry of Home Affairs,
North Block,
New Delhi-110001.
2. Registrar General and ex-Officio Census
Commissioner for India,
Ministry of Home affairs,
Govt. of India,
2-A, Mansingh Road, New Delhi-110011.
3. Director of census Operations, Delhi,
Ministry of Home Affairs,
Govt. of India,
Room No.207, Old Secretariat,
Delhi-110054.
4. Deputy Director of Census Operations, Delhi,
Office of the Director of Census Operations,
Delhi, Ministry of Home Affairs,
Govt. of India,
Room No.207, Old Secretariat,
Delhi-110054.
5. Ministry of Personnel,
Public Grievances and Pensions,
Govt. of India, North Block,
New Delhi-110001 through its Secretary
6. Smt. Santosh Sharma ✓
7. Shri M.Y.Ansari
8. Smt. Lajwanti Chakravorty

9. Smt. Anu Kohli
10. ✓ Shri M.K. Aggarwal
Adhoc Statistical assistants in the
Office of the Director of Census Operations,
Delhi,
Ministry of Home Affairs,
Govt. of India,
Room No.207, Old Secretariat,
Delhi-110054.
11. ✓ Shri P.C. Gupta
12. Shri H.S. Chadha
13. Shri Rajinder Kumar, and
14. Shri Vijay Kumar ✓
Computers in the
Office of the Director of Census Operations,
Delhi, Ministry of Home Affairs,
Govt. of India,
Room No.207, Old Secretariat,
Delhi-110054. ...Respondents.

(None appeared for the respondents)

O R D E R

JUSTICE K.M.AGARWAL:

By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicants have made a prayer for reviewing and revising the Seniority List of Computers issued by the 3rd respondent on 30.12.1992, and thereafter to quash the Office Order dated 30.12.1992 issued by the respondents reverting the applicants from the posts of Statistical Assistants to those of Computers with effect from the afternoon of 31.12.1992.

2. Briefly stated, both the applicants were appointed as Computers in the pre-revised pay scale of Rs.330-560 purely on temporary basis on transfer from the office of the Director of Census Operations, Sikkim, Gangtok. The applicant No.1, Shri S.K.Vasudeva was so appointed w.e.f. 7.9.1981 whereas the applicant No.2, Shri Rajeev Sharma was so appointed w.e.f. 5.3.1982. While working as Computers in the office of the 3rd respondent, they were promoted as Statistical Assistants

(Group C, Non-Gazetted) in the pay scale of Rs.1400-2300 on a purely temporary and ad hoc basis, w.e.f. 23.11.1990. By the impugned Office Order dated 30.12.1992, Annexure A-1, they along with seven others were reverted to the posts of Computers in the pay scale of Rs.1200-2040 w.e.f. the afternoon of 31.12.1992. This Office Order reads as follows:

"Consequent upon winding up of Regional Tabulation Offices set up under this Directorate and also abolition of posts created for R.T.O's in connection with 1991 Census work which cease to exist on 31.12.92 (AN), the following officials appointed as Statistical Assistant on purely temporary & ad-hoc basis vide order No.A.32016/1/90-DCO/2990, dated 3.11.1990, will stand reverted as Computers in the scale of Rs.1200-2040 w.e.f. the afternoon on 31.12.1992.

1. Shri Anil Kumar Pandey
2. Shri Badam
3. Shri Prem Pal Singh
4. Shri Rajeev Sharma
5. Shri Vijay Kumar
6. Shri Rajinder Kumar
7. Shri H.S.Chadha
8. Shri S.K.Vasudeva
9. Shri P.C.Gupta

Hindi version will follow."

As the applicants' impugned reversion was pursuant to the winding up of Regional Tabulation Offices set up under the 3rd respondent and also due to abolition of posts created for R.T.O's in connection with 1991 census work which ceased to exist w.e.f. the afternoon of 31.12.1992, the reversion order cannot ordinarily be questioned, particularly when the promotions were purely on temporary and ad hoc basis. The applicants have, therefore, challenged the order on the ground that the inter se seniority of Computers was wrongly fixed and accordingly the principle of 'last come first go' was wrongly applied and instead of reverting the juniors first, they were reverted. The applicants

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have joined the nine persons as respondents 6 to 14, who according to them were their juniors, if their positions in the impugned Seniority List were correctly fixed.

3. The respondents have filed their counter. They are resisting the claim. Brief history of the case as mentioned in their counter appears material for disposal of the case. The relevant portion of the same is reproduced hereinbelow:

"....The applicants along with others were promoted to the post of Statistical Assistant against the short term posts created for specific purposes in connection with the 1991 Census. On abolition of these posts, the juniormost officials including the applicants were reverted to the posts from which they were promoted, viz. Computer. The applicants were appointed by transfer on 7.9.1981 and 5.3.1982 respectively. As such in the instant case Recruitment Rules at Annexure III-C are only relevant. In accordance with the provisions of these Recruitment Rules i.e. 75% by promotion and 25% by transfer, failing which by promotion, first 3 posts are required to be filled by promotion and the 4th post is to be filled by transfer failing which by promotion.

" Now the applicants have approached the Hon'ble Tribunal to review their seniority list in the grade of Computer which was finalised and circulated vide O.M.No.A.23011/1/75-DCO/1578 dated 16.7.1984. In the revised final seniority list now circulated vide O.M.No.A.23011/1/87-DCO/2356 dated 30th December, 1992 the position of applicants remain unchanged and have been shown at the same position as per the final seniority circulated in the year 1984. The applicants were given due opportunity to submit their objections, if any, but they didn't raise any objection. They have therefore, no legal ground for moving the Hon'ble Tribunal requesting for reviewing their seniority."

For

4. At the time of hearing, no one appeared on behalf of the respondents. The learned counsel for the applicants was heard and the record perused. A perusal of the impugned office order dated 30.12.1992 would show that the names of respondents 11 to 14 have also been included in the list of reverted officials. The Seniority List, Annexure A-2, would show that the respondents Vijay Kumar, Rajinder Kumar, H.S. Chadha and P.C. Gupta were all seniors to Rajeev Sharma, applicant no.2 and, therefore, he has no case to urge that his juniors have been retained, while he has been reverted.

5. Respondent No.11 has been shown as senior to S.K.Vasudeva, the applicant No.1. Shri P.C. Gupta's name is also included in the list of reverted officials given in Office Order dated 30.12.1992. In so far as respondents 6 to 10 are concerned, their names appeared above the names of the applicant No.1 and the respondent No.11. The applicant No.1, S.K.Vasudeva claims that as per recruitment rules his position in the Seniority List should have been above the names of respondents 6 to 10 is misconceived. Column 6 of the Seniority List, Annexure A-2, mentions the date of entry of the employees into government service. The entry of all the respondents 6 to 10 into government service was prior to the date of entry of applicants. Column 8 deals with the date of temporary appointment to the present grade in the office of the 3rd respondent. Here the date of appointment of respondents 6 to 10 is of the year 1983, whereas that of the applicant No.1 is 1981 and that of the applicant No.2 is that of 1982. However, the method of recruitment mentioned in column 4 of the Seniority List would show that all the respondents were promotees whereas the applicants were appointed by transfer. As

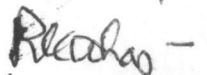
For

contended in the counter, the mode of appointment was 75 per cent by promotion and 25 per cent by transfer, failing which by promotion. As per relevant recruitment rules, the method of fixing seniority was as contended by the respondents in their counter. We also find that no objection was ever raised by the applicants against the provisional seniority list issued by the respondents, inviting objections. In the final seniority list, their position remained unchanged. For this reason also, we find no merit in the contention of the learned counsel for the applicants that the position of the applicants in the Seniority List of Computers was wrongly fixed. If the Seniority List is not found to be incorrect, the reversion order also cannot be said to be bad on the ground that it was not based on the principle of 'last come first go' or 'first come last go'.

6. For the foregoing reasons, we find no merit in this O.A. Accordingly it is hereby dismissed, but without any order as to costs.



(K.M. AGARWAL)
CHAIRMAN



(R.K. AHOOJA)
MEMBER (A)