

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 28th day of February 2003.

QUORUM : HON. MAJ. GEN. K.K. SRIVASTAVA, A.M.
HON. MR. A. K. BHATNAGAR, J.M.

O. A. No. 504 of 1996

Praveen Kumar S/O Shri Brahm Dutta R/O 120/54, Lajpat Nagar, Kanpur.....

..... Applicant.

Counsel for applicant : Sri Shesh Kumar.

Versus

1. Union of India through Secretary, Ministry of Labour, New Delhi.
2. Director General, Employees State Insurance Corporation, Kotla Road, New Delhi.
3. Regional Director, Employees State Insurance Corporation, Sarvodaya Nagar, Kanpur.
4. Sunita Kapoor, Steno (Vigilance Branch), newly posted as UDC Inspection Branch.
5. Anita Nigam, Steno (P.A. Section), newly posted as UDC Inspection Branch.
6. Ashok Kumar Rawat, Steno, Administration Branch, newly posted as UDC Administration Branch.
7. Ram Kishore Kaitval, Steno, General Branch, newly posted as UDC, General Section.

All employees of Employees State Insurance Corporation, Sarvodaya Nagar, Kanpur.

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..... Respondents.

Counsel for respondents : Sri P.K. Pandey.

ORDER (ORAL)

BY HON. MAJ. GEN. K.K. SRIVASTAVA, A.M.

In this O.A. filed under section 19 of A.T. Act, 1985, the applicant has prayed for quashing the impugned orders dated 30.6.1995 (Annexure A-1) and 13.9.1995 (Annexure A-2) and to direct the respondents not to disturb the seniority position of the applicant as mentioned in the office memo dated 4.4.1995.

2. The facts, in short, are that the applicant joined the respondent's establishment as LDC on 30.1.1980. The post of the UDC is to be filled by promotion to the extent of 75% and remaining 25% on the basis of departmental competitive examination. The departmental competitive examination for the post of UDC was held in 1983. The applicant appeared in the same and was declared successful. On the basis of the same, the applicant was promoted to the post of UDC w.e.f. 15.11.1988. The respondent No.2 gave right of option to stenographers, who had completed probation period on or before 21.5.1994 to be absorbed as UDC. In pursuance of the same, the Respondent Nos. 4 to 7 were absorbed in UDC cadre and as per the order of Respondent No.2, the seniority has been fixed above the applicant. Aggrieved by this, the applicant has filed this O.A. which has been contested by the respondents.:

3. Sri Shesh Kumar, Counsel for the applicant submitted that the seniority list dated 4.4.1995 attained finality and once the seniority list dated 4.4.1995 was final, the applicant's seniority cannot be affected without giving notice/opportunity of hearing. Even the amendment in rules at a subsequent date cannot change the seniority of the applicant. Counsel for the applicant also submitted that the action of the respondents in giving option to the Stenographers to join UDC cadre is illegal, arbitrary and unsustainable in the eyes of law. The action of the respondents by changing the seniority is going to affect the applicant adversely and the chance of his promotion have been reduced.

4. Opposing the claim of the applicant, Sri P.K. Pandey, counsel for respondents submitted that the validity of the rules has not been challenged by the applicant. The applicant has not been singled out and none junior to the applicant, who joined the respondent's establishment as Stenographer, has been promoted.

5. Inviting our attention to para 9 of the counter

affidavit, counsel for the respondents submitted that one time opportunity was given to the stenographers, to join the cadre of UDC and no illegality has been committed by the respondents in fixing the seniority of such incumbents in the cadre of UDC on the basis of regular appointment on the post of stenographer. Counsel for respondents finally submitted that the grades of stenographers and UDC are same as has been stated in para 9 of the counter and, therefore, the respondents have committed no irregularity by deciding the seniority of the applicants vis-a-vis Respondent Nos. 4 to 7.

6. We have heard counsel for the parties, carefully considered their submissions and perused the records.

7. The short question involved in the present case is whether the seniority of a person can be altered after the seniority list attains finality or not. We have perused the impugned orders carefully. The order dated 30.6.1995 has been passed pursuant to the restructuring of the cadre of stenographer and publication of separate recruitment rules dated 21.5.1994 and only in pursuance of the same one time option was given to the stenographers to join UDC cadre.

8. In our opinion, no irregularity has been done by the respondents as this option has been given to the stenographers only after the recruitment rules were published on 21.5.1994. We would also like to observe that the person, who joins the establishment earlier, is naturally senior to the person who joins later even though they may be in different departments. In the instant case once the respondent nos. 4 to 7 were absorbed in UDC cadre in accordance with rules, their dates of appointment in the establishment ^{had to be} ~~will~~ be reckoned for seniority. Since it is a case of one time option and the respondent nos. 4 to 7 opted for UDC cadre and admittedly they joined earlier than the applicant, no illegality has been committed by assigning them correct seniority keeping in view their date of joining in the regular cadre. We

would also like to observe that on framing of recruitment rules only one time option was given and the induction of the stenographers in the UDC cadre is not a regular feature. Therefore, in our opinion, no illegality has been committed by the respondents in fixing the seniority of Respondent nos 4 to 7 over the applicant. In such circumstances there is no bar for altering the seniority. The question, therefore, put in para 7 stands replied. We do not find any good ground for interference.

9. In the facts and ^hcircumstances ^h and our aforesaid discussions, the O.A. is devoid of merits and accordingly dismissed with no order as to costs.

J.M.

A.M.

Asthana/