

**OA No. 291/823/2013**

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

**ORIGINAL APPLICATION NO. 291/823/2013**

Order reserved on 16.09.2021

**DATE OF ORDER:** 01.10.2021

**CORAM**

**HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**  
**HON'BLE MRS. HINA P. SHAH, JUDICIAL MEMBER**

R.G. Meena S/o late Shri Sualal Meena, aged about 51 years resident of Village Akeria Dungar, Tehsil Amer, District Jaipur (Rajasthan), presently working as Administrative Officer at Jaipur.

....Applicant

Ms. Kavita Bhati, counsel for applicant (through Video Conferencing).

**VERSUS**

1. Union of India through its Secretary to the Government of India, Ministry of Defence, South Block, New Delhi-110011.
2. The Director General (Pers), E1 DPC (PP & SUB), Military Engineer Services, E-in-C's Branch, Integrated HQ of MoD (Army), Kashmir House, DHQ PO, New Delhi-110011.
3. The Chief Engineer (HQ), South Western Command, PIN-908546, C/o 56 APO.
4. The Chief Engineer (HQ), Jaipur Zone (MES), Power House Road, Banipark, Jaipur-302006.
5. Sh. Satish Kumar Sehgal (MES No. 311430), Superannuated in April 2013, R/o WZ/1922, 2<sup>nd</sup> Floor, Rani Bagh, New Delhi-110054.

.... Respondents

Shri Kinshuk Jain, counsel for respondent Nos. 1 to 4 (through Video Conferencing).

**ORDER**

**Per: Hina P. Shah, Judicial Member**

The present Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 for the following reliefs:-

- “(i) By an appropriate order or direction the impugned seniority list dated 22.04.2013 may kindly be quashed and set aside and be modified to the extent of the applicant and he may be placed above the respondent no. 5 as per his seniority.
- (ii) By an appropriate order or direction the respondents may be directed to make correction in the impugned seniority list with all consequential benefits of promotion etc. to the applicant.
- (iii) Cost of the application may also kindly be awarded to the applicant; and

Any other order or direction which this Hon’ble Tribunal deems fit and proper may also kindly be passed in the favour of the applicant in the larger interest of the equity justice and law.”

2. (a) The brief facts of the case, as stated by the applicant, are that he was initially appointed in the year 1984 as LDC, then promoted as UDC in the year 1989 and then promoted as Assistant in the year 2000 and promoted as Office Superintendent (OS) in March 2003. He was then promoted to the post of Administrative Officer (AO) Grade II in the year 2007,

which is a selection post and Recruitment Rules for promotion to the said post are as under:

“Office Superintendent in the scale of pay of Rs. 9300-34800 with Grade Pay of Rs. 4200/- in PB-2 with five years of regular service in the grade who have successfully completed training of office management course or Administrative Officer orientation course of one/two weeks duration at Office Superintendent level duly certified by the Head of the Office”.

(b) The applicant further states that respondent No. 5 was initially from a different cadre i.e. Stenographer and came to be inducted in the cadre of Assistants in compliance of a judgment dated 22.10.2010 passed by the Hon'ble High Court of Jammu & Kashmir upholding the judgment of the Central Administrative Tribunal, Chandigarh Bench. The revised seniority list of Assistants after inclusion of Stenographers Grade III was circulated vide letter dated 29.09.2011 to which the applicant raised objection vide his representation dated 15.11.2011 as he was shown at Sl. No. 439. In the meanwhile, the applicant was promoted as Administrative Officer Grade II on 30.04.2007 and a seniority list on All India basis dated 31.03.2011 was circulated wherein the applicant was shown at Sl. No. 27 and name of respondent No. 5 was shown at Sl. No. 51 who was promoted on 24.04.2009 to the post of Administrative

**OA No. 291/823/2013**

Officer Grade-II. Thereafter, again an All India Seniority List of Administrative Officer Grade II was issued on 22.04.2013, wherein the applicant was shown at Sl. No. 15 and respondent No. 5 at Sl. No. 3, which was not correct as the applicant was promoted to the post of Administrative Officer Grade II much before respondent No. 5. The applicant filed a representation dated 09.05.2013, (Annexure A/5), against the said seniority list. Thereafter, respondent No. 5 came to be promoted as Administrative Officer Grade-I vide office order dated 21.03.2013 which is against the rules of natural justice.

(c) The applicant also states that the official respondents have not bothered to the objections raised by the applicant on the revised seniority list and without finalizing or deciding the representations/objections, have made further promotions to the grade of Administrative Officer Grade-I, which is completely unjust and arbitrary. Thus, the judgment relied by the respondents is not applicable to the present case as the applicant was promoted to the post of Assistant much earlier to the respondent No. 5 and, therefore, being aggrieved by the same, the applicant has filed

the present Original Application as the action of the official respondents is highly illegal and arbitrary.

3. (a) The official respondent Nos. 1 to 4, after issue of notices, filed their reply and stated that the respondent No. 5 has been promoted to the grade of Assistant and subsequently Office Superintendent and Administrative Officer Grade-II in compliance of the orders of Hon'ble CAT, Chandigarh Bench (Circuit Bench at Jammu) dated 18.05.2009, passed in TA No. 36/JK/2005 (SWP No. 639/2002) filed by Shri Bal Krishan & Ors. vs. Union of India and further upheld by the Hon'ble High Court of Jammu & Kashmir at Jammu vide order dated 22.10.2010 through a Review DPC against the year 2006-07. As respondent No. 5 has been placed above the applicant through a duly constituted Review DPC from Office Superintendent and Administrative Officer Grade II vide HQ panel dated 20.10.2011, the applicant's contention that he is senior to respondent No. 5 is not valid and his placement in the seniority list above the applicant is just and proper.

(b) The official respondents further state that the applicant has never challenged his promotion to the

post of Administrative Officer Grade-II, therefore, his contention that promotion of respondent No. 5 is not as per rules, cannot be accepted as seniority has been correctly assigned to him as per law. It is further submitted that respondent No. 5 has been promoted to the cadre of Administrative Officer Grade-I by a duly constituted DPC for the year 2013-14 based on the revised seniority list of Administrative Officer Grade-II and panel was issued vide letter dated 21.03.2013, (Annexure R/2). Thus, official respondents state that the applicant has failed to challenge the Review DPC at that point of time as well as the court orders which were the basis of impugned seniority list dated 22.04.2013 (Annexure A/1). Hence, as the action of the official respondents is just and proper, Original Application deserves to be dismissed.

4. The applicant has filed rejoinder denying the contentions raised by the official respondents. He further stated that the main contention of the official respondents in their whole reply is that respondent No. 5 has been promoted to the grade of Assistant and subsequently as Office Superintendent and Administrative Officer Grade-II in compliance of court orders, through review DPC against the year 2006-07.

**OA No. 291/823/2013**

The applicant states that as per All India Seniority list of Administrative Officer Grade-II as on 01.04.2013, the date of Assumption of Administrative Officer Grade-II and year of DPC panel along with serial number are given in column No. 7, which clearly shows that that DPC year of respondent No. 5 is 2006-07 and Sl. No is 15, whereas the DPC year of the applicant is 2006-07 and the applicant is at Sl. No. 13, which clearly shows that the applicant is senior to respondent No. 5. Thus, the entire exercise of assigning the seniority to respondent No. 5 seems to be hypostatical and arbitrary. Though the objections were raised by the applicant on revised seniority list, but the official respondents without finalizing or deciding the representations/objections, have made further promotions from the impugned seniority list to the grade of Administrative Officer Grade-I, which is highly unjust and arbitrary and, therefore, the present Original Application filed by the applicant deserves to be allowed.

5. Heard learned counsels for the parties at length through Video Conferencing and examined the pleadings brought on record.

6. The applicant and the official respondents have reiterated their stand as taken earlier.

7. After hearing the parties and perusing the pleadings, the factual matrix of the case is that the applicant was appointed as an Assistant in the year 2000 and promoted as Office Superintendent in the year 2003. He was promoted as Administrative Officer Grade-II in the year 2007 as per Recruitment Rules. The respondent No. 5 was from a different cadre i.e. Stenographer. He was promoted as Assistant and thereafter as Office Superintendent and Administrative Officer Grade II in compliance of the orders of Central Administrative Tribunal, Chandigarh (Circuit Bench at Jammu) dated 18.05.2009, passed in TA No. 36/JK/2005 (SWP No. 639/2002) filed by Shri Bal Krishan & Ors. vs. Union of India and further upheld by the Hon'ble High Court of Jammu & Kashmir at Jammu vide order dated 22.10.2010, through a Review DPC against the year 2006-07. As seen, a Review DPC was duly constituted for considering promotions of Office Superintendent and Administrative Officer Grade-II vide HQ panel No. 44005/AOII/R-DPC/E1 DPC (PP&SUB) dated 20.10.2011, (Annexure R/1). Therefore, the contention of the applicant that in spite



**OA No. 291/823/2013**

of he being senior to respondent No. 5, his placement above the applicant is not fair, cannot be accepted as it due to the court orders, the official respondents have taken these steps in compliance thereof. Therefore, as per revised seniority list, respondent No. 5 has been correctly placed above the applicant and, therefore, the seniority to respondent No. 5 has been correctly assigned. Also as observed by us, the applicant has not challenged his promotion to the grade of Administrative Officer Grade-II. Thereafter, respondent No. 5 has been promoted to the grade of Administrative Officer Grade-I by a duly constituted DPC for the year 2013-14 based on the revised seniority list of Administrative Officer Grade II and the said panel was issued vide letter No. B44005/AOI/DPC/2013-14/EI DPC (PP&SUB) dated 21 March 2013, (Annexure R/2).

8. We have also noted that the seniority list for Assistant has been according to rotation of vacancies between the Assistants promoted from Stenographers and UDCs based on quota of vacancies for promotion respectively as per Recruitment Rules. The Recruitment Rules for promotion from Office Superintendent to Administrative Officer Grade II have

**OA No. 291/823/2013**

been changed in March 2013. But whatever promotions held prior to March 2013 were governed by the said rules prevailing at that relevant time have to be applied and, accordingly, the applicant was promoted to the grade of Administrative Officer Grade-II in the year 2007.

9. During the course of arguments, learned counsel for the applicant pointed out that at Annexure A/1 dated 22<sup>nd</sup> April, 2013, All India Seniority List of Administrative Officer-II as on 1<sup>st</sup> April, 2013', in Column No. 7, year of DPC Panel Serial Number of respondent No. 5 is 2006-07 and shown at Sl. No. 15, whereas year of DPC Panel Serial Number of the applicant is 2006-07 and the applicant is shown at Sl. No. 13, but these arguments of the applicant cannot be accepted as it is clear from Annexure A/1 that the applicant is at Sl. No. 15 whereas respondent No. 5 is at Sl. No. 3 in the All India seniority list of Administrative Officer Grade-II as on 01<sup>st</sup> April, 2013 and the same is clear due to Review DPC being held in compliance of the orders of Central Administrative Tribunal, Chandigarh (Circuit Bench at Jammu) as well as Hon'ble High Court of Jammu & Kashmir. The official respondents on the said averment of the

**OA No. 291/823/2013**

applicant has raised a valid ground that as respondent No. 5 is at Sl. No. 3, the persons below him at Sl. No. 4, 5, 6, 7 & 8 in All India Seniority List of Administrative Officer Grade II as on 1 April 2013 are also of DPC year 2006-07 and their Panel Sl. Nos. are 18, 22, 23, 24 & 25, respectively as per Column No. 7 of the said seniority list. Thus, the applicant has failed to make persons at Sl. No. 4 to 8 as party respondents. Further, as pointed out by Shri Kinshuk Jain, learned counsel for the official respondents that one Shri Babu Lal Meena, who is at Sl. No. 17 in the said seniority list, at Column No. 7, his DPC year is shown as 2006-07 and Panel Sl. No. 15, which is exactly the same as that of respondent No. 5, who is placed at Sl. No. 3 in the said seniority list. Therefore, it is clear that there is no case of any discrimination towards the applicant as respondent No. 5 has been considered due to compliance of the orders of the Central Administrative Tribunal, Chandigarh (Circuit Bench at Jammu) as well as Hon'ble High Court of Jammu and Kashmir at Jammu and so respondent No. 5 is senior to the applicant by a Review DPC duly constituted as per rules.

**OA No. 291/823/2013**

10. As observed by us towards a query raised earlier by this Tribunal, the respondents have placed on record, by way of an M.A No. 158/2020, a copy of letter dated 06.01.2020 issued by Joint Director, Engineer-in-Chief's Branch, whereby it is shown that there is no change in status in seniority list afterwards. We have also gone through the grounds raised by the applicant pertaining to the stand of the applicant that though he was senior to respondent No. 5, promotions of respondent No. 5 to the post of Administrative Officer Grade-II and thereafter as Administrative Officer Grade-I are arbitrary and illegal, cannot be accepted in view of the discussions made above that the same are in compliance of the orders passed by Central Administrative Tribunal, Chandigarh (Circuit Bench at Jammu) and thereafter as upheld by the Hon'ble High Court of Jammu & Kashmir at Jammu. Thus, the grounds raised by the applicant are not sustainable as the same cannot be accepted. Therefore, it is clear that the action of the official respondents is proper, just and legal and the impugned seniority list dated 22.04.2013 at Annexure A/1 deserves no interference.

**OA No. 291/823/2013**

11. In the light of the observations made herein-above, we, therefore, have no hesitation to observe that the impugned seniority list dated 22.04.2013, (Annexure A/1), deserves no interference as the same is just and proper and the present Original Application deserves to be dismissed. Accordingly, the Original Application is dismissed with no order as to costs.

**(HINA P. SHAH)**  
**JUDICIAL MEMBER**

**(DINESH SHARMA)**  
**ADMINISTRATIVE MEMBER**

/nlk/