

Item No. 32



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**OA No. 329/2019
MA No. 386/2019**

This the 12th day of May, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Tarun Shridhar, Member (A)**

1. Sh. V.K.K. Nadimpalli
S/o late N.S.R. Pantulu
Dy. Development Commissioner
Age 57 years
Group A, Ministry of Finance
IES Division
Department of Economic Affairs
North Block, New Delhi-110001.
R/o APSEZ, 9th Floor
VUDA Complex, Visakhapatnam-530003(AP)
2. Hari Prasad Jaiswal
S/o late Sampat Lal Jaiswal
Age 57 years
Dy. Director, Group A
Ministry of Finance
IES Division
Department of Economic Affairs
North Block, New Delhi-110001.
R/o 402, Sector 4
RK Puram, New Delhi-110022.
3. Sunil Kumar Gupta
S/o Shri Ram Kumar Gupta
Age about 55 years
Dy. Director, Group A
Ministry of Finance
IES Division
Department of Economic Affairs
North Block, New Delhi-110001.
R/o C-22A, Rajat Vihar
Sector 62, Noida, UP-201201.

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4. Utpal Nath
S/o late Jitender Chandra Nath
Age about 52 years
Dy. Director Group A
Ministry of Finance
IES Division
Department of Economic Affairs
North Block, New Delhi-110001.
R/o 46-C, Vijay Mandal Enclave
Kalu Sarai, Hauz Khas
New Delhi-110016.

5. Magan Lal Meena
s/o Shri Jairam Meena
age 57 years
Dy. Director Group A
Ministry of Finance
IES Division
Department of Economic Affairs
North Block, New Delhi-110001.
Room No. 535
Neeti Aayog, Parliament Street
New Delhi 110001.

... Applicants

(By Advocate: Mr. M. Vijaya Bhaskar)

Versus

1. Union of India, through Secretary
Micro Small & Medium Enterprises (MSME)
Udyog Bhavan, New Delhi-110001.
2. Development Commissioner... Respondents
Micro Small & Medium Enterprises (MSME)
Nirman Bhavan, New Delhi-110001.
3. Union of India
Through Secretary
Dept. of Economic Affairs
Ministry of Finance, North Block, New Delhi-110001.
4. The Adviser
IES Division, Dept. of Economic Affairs
North Block, New Delhi-110001.

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5. Union of India
Through Secretary
Dept of Personnel & Training
North Block, New Delhi-110001.

...Respondents

(By Advocate : Mr. U. Srivastava)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman :

The applicants joined the service of the Department of Micro, Small and Medium Enterprise (MSME) in the year 1997, as Economic Officers. The selection is said to be for the vacancies of the year 1995. In the context of fixation of the seniority between the direct recruits and promotees, there existed some uncertainty. In its judgment in ***N.R. Parmar & Ors. Vs. Union of India & Ors.***, the Hon'ble Supreme Court held that the irrespective of the date on which the direct recruit is actually appointed, the seniority shall be reckoned from the date on which the selection process is initiated/indented to the selecting agency. However, in the recent past, the Hon'ble Supreme Court reversed the said decision in ***K. Meghachandra Singh vs. Ningam Siro, 2020 (5) SCC 689.***

2. Placing reliance upon the OM dated 04.03.2014, the applicants filed this OA with a prayer to direct the respondents to implement the said OM in their case and then to fix their seniority with retrospective benefits.

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3. Respondents 1 to 5 filed a detailed reply. They referred to various changes in law that have taken place in the context of fixation of seniority.

4. Today, we heard Sh. M. Vijaya Bhaskar, learned counsel for the applicants, and Sh. Hanu Bhaskar, learned counsel for the respondents.

5. The controversy in this OA is about the method of fixation of seniority of the applicants vis-à-vis the officers, who were appointed on promotion to the said post. There used to be some uncertainty about method of fixation of seniority between two categories. In N.R. Parmar (supra), the Hon'ble Supreme Court held that irrespective of the date on which the direct recruit is actually appointed, they shall be entitled to reckon the seniority with reference to the date on which the selection process was initiated. However, the said judgment was overruled by the Hon'ble Supreme Court through its judgment in K. Meghachandra Singh (supra). It was held that no officer or employee can claim seniority with reference to a date earlier to the one, on which he was appointed. Even while holding so, their Lordships protected the seniority lists, which have already become final on the basis of judgment in N.R. Parmar (supra).

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6. The applicants are not clear as to whether their seniority was fixed already in accordance with N.R. Parmar (supra). These are the issues, which can be addressed only, if a representation is made by the applicants to the respondents.

7. We, therefore, dispose of the OA leaving it open to the applicants to make a representation ventilating their grievances as regards fixation of seniority, duly enclosing all the relevant documents. We direct the respondents to pass an appropriate orders within a period of three months from the date of receipt of such representation, duly taking into account all the relevant factors including the judgment of the Hon'ble Supreme Court in N.R. Parmar and K. Meghachandra Singh's case.

8. Pending MA also stands disposed of. There shall be no order as to costs.

(Tarun Shridhar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/vb/ns/dsn