

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD.

O.A. NO.
T.A. NO.

Misc. Appl. No. 38/42
✓
O.A. 66 of 89

DATE OF DECISION 29.6.92

P. K. Gupta

PETITIONER

Sri Idris Ahmed

Advocate for the Petitioner(s)

Versus

Union of India & Others

RESPONDENT

Sri K. C. Sinha

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice U. C. Srivastava, M.C.

The Hon'ble Mr. A. B. Gorathi, A.M.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether to be circulated to all other Benches ?

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GRANSHYAM

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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

O.A.No.66 of 1989

P.K.GuptaApplicant.

Versus

The Union of India & othersRespondents.

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, A.M.

(By Hon'ble Mr. Justice U.C.Srivastava, V.C.)

The applicant has approached this Tribunal praying that the respondents be directed to restructure the seniority list of Section Officers (Account) on the basis of continuous length of service in the Grade and not on the basis of confirmation and the seniority list of Section Officers (Account) along with the promotion orders to Account Officer may be quashed. ^{and that} The respondents may also be directed to consider the promotion of the applicant with effect from the date his juniors were promoted.

2. The applicant was promoted as Section Officer (Account) in the scale of 270-570 on officiating basis w.e.f. 28.3.72 and was confirmed on the post w.e.f. 2.1.78. In the seniority list, his position was shown at serial number 34. The seniority list circulated on 22.12.78 from the office of the Controller of Defence Account (Air Force) for Section Officers (Account) was corrected upto 31.12.77 and the applicant being in officiating capacity was not included in the list but the respondent no.8 was included in the list and his position was shown in the list at S.No.69. The seniority list

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indicated that the officiating Section Officer (Account) and permanent Section Officer (Account) have been dealt on different footing for counting of period of seniority for next higher promotion. After confirmation of the applicant w.e.f. 2.1.78, another list of permanent/officiating Section Officer (Account) was circulated and corrected upto 1.1.83 which had simply assigned the seniority to the Section Officer (Account) on the basis of confirmation ignoring the seniority from the date of appointment as Section Officer (Account) followed by confirmation. According to the applicant, seniority on the basis of confirmation was wrongly determined by which applicant's seniority has been lowered down in preference to those who are juniors to him. The applicant has placed reliance on para 83 of the O.M. Part I which reads as follows:-

"Para 83- The number of vacancies of Account Officer due to arise is computed and based on this data and other relevant factors, the number of Section Officer (Account) to be considered for promotion is arrived at.

The CGDA nominates the accelerated promotion Committee which scrutinizes the confidential reports of the Section Officer (Account) who falls within Promotion Zone and draws a list of Section Officer (Account) who are to be interviewed for consideration for accelerated promotion. After personal interview the accelerated promotion Committee draws up a confidential select list of Section Officer (Account) to be promoted out of term.

When the regular departmental committee

meets the list of Section Officer(Account) selected for promotion by acceleration is ratified. The Departmental Promotion Committee also considers and draws up a list of Section Officer(Account) selected for promotion as Account Officer on the basis of seniority-cum-fitness. The Committee also considers and draws up a list of Section Officer(A) selected for promotion as Account Officer from reserve category post.

The select list drawn up by the Departmental Promotion Committee for the promotion of the Section Officer(A) to the officiating Accounts Officer Grade; namely (i) out of turn selection on merit, (ii) seniority-cum-fitness and (iii) reserve categories are merged into a combined select list in there interse seniority in the Section Officer(A) Grade. This select list after approval by the CGDA is followed for making promotions to the officiating Accounts Officer Grade as an when vacancies occur, provided the work and conduct of the selected Section Officer (A) have remained satisfactory."

3. The above para lays down the process regarding selection and merger but it does not speak of the mode and method of determining the seniority.

4. Learned counsel for the applicant placed reliance on the cases of 'Union of India & others Vs. M.Ravi Verma' 1972 S.C.C. 379 and 'S.P. Patwardhan Vs. State of Maharashtra & others' 1977 and the others cases following the same. The above case laws do not apply to this case.

5. The respondents in their reply have pointed out that the applicant was not considered fit for confirmation in the Grade of Section

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Officer (Accounts) by two Last-Pay-Certificates which above initial stage and at the subsequent review stage. The records for the above period involved being time expired have since been destroyed. However, the Annual Confidential Reports Dossiers states the reason for the same. The Annual Confidential Report for the year 1974 and midterm confidential report for the period 1.1.77 to 7.6.77 are adverse. The applicant was confirmed on 2.1.78, hence the applicant became junior to respondents no.6 to 9 who were confirmed earlier to the applicant as seniority accompanies confirmation. According to the proviso to para 5 of the Office Manual Part-I to decision No.27 below Article 26 C.S.R. Vol.I and para 2.3 . of Ministry of PPG AND P (Department of Personnel and Training) of his memorandum dated 3.7.86, the seniority has to be counted from the date of confirmation. Reference has also been made to Order No.7 of Government of India, Ministry of Defence dated 22.8.86 where it has been pointed that "the relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to these appointed as a result of a subsequent selection". It has also been pointed out in the above order that "where persons recruited or promoted initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the same time of their appointment,

seniority shall follow the order of confirmation and not on original order of merit." Thus, the applicant cannot claim the benefit of continuous service for the purpose of seniority. As such the application deserves to be dismissed and the application is accordingly dismissed. No order as to costs.

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MEMBER(A)

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VICE CHAIRMAN.

DATED: JUNE 29, 1992

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