

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO. 1570 of 1992

Allahabad, this the 28th day of April, 2000.

CORAM : Hon'ble Mr. S. Dayal, Member (A)

Hon'ble Mr. Rafiq Uddin, Member (J)

K.K. Saxena aged about 49 years

S/o Late K.C. Saxena,

presently posted as Senior Technical

Assistant Advance Training Institute

Udyognagar, Kanpur

... Applicant.

C/A Shri Sudhir Agrawal

Versus

1. Union of India through Secretary
Ministry of Labour, New Delhi
2. The Director General of Employment
and Training, Sharam Shakti Bhawan
2/4 Rafi Marg New Delhi
3. The Regional Director of Apprenticeship
Training, Udyognagar, Kanpur
4. Sri B.L. Sahijwan, Training Officer,
ATI Udyognagar, Kanpur
5. Sri A.H. Naqvi, Training Officer, ATI
Udyognagar, Kanpur
6. Sri S.P. Kulshreshtha, Senior Technical
Assistant/Surveyor, RDAT, Udyognagar
Kanpur
7. Sri M.C. Verma, Millwright Maintenance
(ATO) ATI Udyognagar, Kanpur

8. Sri B.M. Chakrabarty, Training Officer
RDAT Kanpur
9. Sri M.H. Siddiqui Surveyor (STA),
Udyognagar, Kanpur

... Respondents.

C/R Ms. Sadhna Srivastava.

O R D E R

(By Hon'ble Mr. S. Dayal, Member (A))

This application seeks a direction to the respondents to extend and implement benefit of the judgement dated 10.04.1999 in O.A. No. 549/86 in respect of his seniority and other benefits to the applicant as he was similarly circumstanced with the applicants in the said case. The applicant has also sought the setting aside of order dated 07.05.1992. The applicant has sought placement in the seniority list after Sl. No. 17 namely Shri A.V. Lohani in the seniority list dated 23.04.1992 and above respondents numbers 4 to 9. Consequential benefits and cost of the application have also been sought.

2. The case of the applicant is that he was initially appointed as Junior Instructor on 01.11.1966. He subsequently applied for and was duly selected as direct recruit for the post of Junior Technical Assistant and offer^{of L} appointment and appointment orders were given on 23.03.1974. The respondents vide letter dated 01.07.1974 revised the pay scales of Junior Instructors who were upgraded and equalised with J.T.A. and this decision was given effect from 27.05.1970. Prior to this on 23.09.1973 the post of CPO CB was redesignated as JTA and ^LDirectorate of Training (Class III post) ^L and ^L

Recruitment Rules, 1974, were promulgated which made Junior Instructor with five year service eligible for promotion to the post of JTA. Since the cadre of Junior Instructors formed feeder cadre to the post of JTA, the applicant claims to be senior to all those Junior Instructors who had been in service for a period longer than his own has been an Instructor.

3. The arguments of Shri S. Agrawal for the applicant and Km. Sadhna Srivastava for the respondent have been heard, the pleadings on record have been considered.

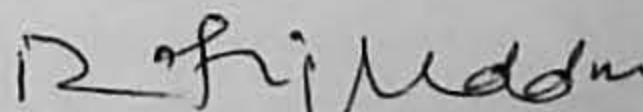
4. The basic issue which was raised is whether the benefit of order of this Tribunal in Smt. Umakanti Srivastava and Others Vs. Union of India and Others in O.A. No. 549/86 dated 10.04.1991 should be extended to the applicant in this case or not. The respondents have denied the claim of the applicant on the ground that the applicant was not a party to this case and that the benefits of order of the Tribunal in this case can be given only to three officials who were applicants.


5. We find that the order of the Tribunal in O.A. No. 549/86 clearly mentioned that those who were in service as CPO CD (later designated as ^{J.T.A.} JTA) were en bloc senior to the Junior Instructors and the change affected on 01.07.1974 giving retrospective effect cannot adversely alter the status of placement of the JTAs. It was also held that since administrative instructions merely stipulated and ^{did} not supplant the statutory rule, the denial of right to the benefit of

service as JTA was not valid as it violated the recruitment rules. The order of the Tribunal cites the authority of D.P. Sharma and Others Vs. Union of India and Others, AIR 1989 SC 1071 in which it has been stipulated that the general rule is that if seniority is to be regulated in a particular manner in a given period, it should be adhered to and shall not vary to disadvantage retrospectively.

6. We find that the claim of the applicant in this O.A. is the same as was made by the applicants in O.A. No. 549/86. The learned counsel for the applicant has mentioned that besides these three applicants one Shri L.P. Verma who had filed O.A. No. 728/92 was given the benefit of judgements of Allahabad Bench at Central Administrative Tribunal In O.A. No. 549/86 has been extended Shri L.P. Verma by order of Ministry of Labour dated 21.12.1992.

7. We, therefore, find justification in the claim of the applicant for relief. The respondents are, therefore, directed to extend the benefit of judgement dated 10.04.1991 in O.A. No. 549/86 in respect of seniority and other consequential benefits. The applicant may be placed below Sl. No. 16 within a period of three months from the date of receipt of the copy of this order


Member (J)


Member (A)

/S.P./

In The Central Administrative Tribunal
ALLAHABAD BENCH

:: ORDER - SHEET ::

Application No. 1570/92 of 199

Applicant (s)

Respondent (s)

Advocate for Applicant (s)

Advocate for Respondent (s)

| Notes of the Registry | Orders of the Tribunal |
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| <p>OR</p> <p>Misc. 5408/2000 is Submitted to addl. reg. 16/10/2000</p> | <p><u>17-10-2000</u></p> <p>Hon'ble Mr. Rafiquddin, J.M.</p> <p>Hon'ble Mr. S. Biswas, A.M.</p> <p>None for the applicant. Km. Sadhna Srivastava, counsel for the respondents. MA No.5508/2000 by the respondents for granting six months time for compliance of the order dated 28-4-2000 ^{because} that the revision of the seniority list will take some time. The applicant has not filed any objection to this MA. Accordingly the MA is allowed and respondents are directed to comply with the order dated 28-4-2000 within six months from today.</p> <p>2. A copy of this order may be given to the counsel for the respondents by the office.</p> <p><u>Dube/</u></p> <p>Member (A) Member (J)</p> |