(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT NAINITAL

Nainital this the 17th day of April, 2001.

C O R A M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Maj. Gen. K.K. Srivastava , A.M.

Orginal Application No. 642 of 1996

Alongwith

Orginal Application No. 99 of 1995

And

Orginal Application No. 680 of 1995

1. J.P. Mehta S/o Late Janki Prasad Mehta
R/o 220-2/1, D.L. Road, Dehradun.

2. B.S. Rawat S/o Debi Singh Rawat
R/o Mata Mandir Chowk, Ajabpur, Dehradun.

3. P.R. Kakkar S/o Late Jagat Ram Kakkar
R/o 71/2, Bakralwala, Dehradun.

.....Applicants in O.A 642/96

Counsel for the applicants :- Sri K.C. Sinha

V E R S U S

1. Union of India represented through the Secretary to the Govt. of India, M/o Science & Technology, Technology Bhawan, New Mehrauli Road, New Delhi.

2. The Surveyor General of India, Survey of India, Hathibarkala, Dehradun.

3. Sri Vilayati Ram S/o Not known, At present working as Estblishment & Accounts Officer, Southern Circle, Survey of India, Bangalore.

.....Respondents In OA 642/96

Counsel for the respondents :- Sri R.C. Joshi.

T.S. Chaudhary S/o Late Gajpal Singh Chaudhary
R/o G-97, Hathibarkala Estate, Dehradun.

.....Applicant in O.A 99/95

Counsel for the applicant :- Sri K.C. Sinha

V E R S U S

1. Union of India through the Secretary M/o Science & Technology, New Delhi.

2. The Surveyor General Of India, Dehradun.

3. Sri E. Venkatesam
4. Sri J.S. Sodhi
5. Sri Charanjit

Through the Surveyor General of India, Hathibarkala Estate, Deharadun.

.....Respondents inOA 99/95

Counsel for the respondents :- Sri R.C. Joshi

L.N. Sharma a/a 48 years S/o Sri Balmukund Sharma
Upper Division Clerk, Map Publication,
Survey of India, Dehradun.

.....Applicant in O.A 680/95

Counsel for the applicant :- Sri K.C. Sinha

V E R S U S

1. Union of India through the Secretary M/o Science & Technology, New Delhi.

2. Surveyor General of India, Dehradun.

.....Respondents In OA 680/95

Counsel for the respondents :- Km . S. Srivastava

O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

Applicants in the aforesaid O.As. have challanged

the seniority list prepared by the respondents with regard to U.D.C employees. The applicants were serving under the Surveyor General of India, Dehradun. Applicants initially joined the organisation as L.D.C on different dates. From the post of L.D.C the next post of promotion is U.D.C. According to rules, 75% of the total posts of U.D.C are filled by promoting directly from L.D.C and remaining 25% posts are filled by Limited Departmental Competitive Examination. Dispute arose with regard to seniority of the U.D.Cs promoted/appointed in the aforesaid ratio. The U.D.Cs promoted by the limited departmental competitive examination to which group, the applicants belong, were put below the promotees, which was challanged before Karnataka High Court by filing writ petition . The Government then by order provided that for preparing of seniority list , a roster should be maintained for placing the direct recruits and promotees according to the Recruitment Rules. It further provided that as 75% vacancies are reserved for promotees and 25% for direct recruits, the ratio shall be 3:1 and one direct recruit shall be placed below 3 promotees in the seniority list. This method of preparing the seniority list was not challanged. The grievance was against the view taken by authorities in not confirming the persons who were promoted earlier, but confirming persons who were promoted later. It may also be noted at this place that prior to the aforesaid mode, the seniority was being fixed according to the date of confirmation as U.D.C. Karnataka High Court in writ petition No. 165/79 V.T. Rajendran Vs. U.O.I & Ors. vide judgement dt. 20.11.81 though approved the mathod of determining the seniority; but gave following direction regarding the confirmation :-

" In the light of my above discussion, I issue a writ in the nature of mandamus to respondents 2 and 3 to re-examine the claims of the petitioner and other eligible officers for confirmation strictly

on the basis of seniority from the date of their appointments and make confirmations on that basis and redraw a fresh gradation-list in accordance with law and in the light of observations made in this order as expeditiously as is possible in the circumstances of the case."

3. The judgement of Karnataka High Court was accepted by the Government. The seniority list was accordingly revised and a fresh seniority list was issued on 20.08.93. The provisional list was circulated and objections were invited by 30.09.93. The last such list was issued on 07.03.94. Dis-satisfaction however, remained there against revised seniority list mentioned above, which gave rise to filing of O.As in various Benches of this Tribunal. The first O.A was filed before Hyderabad Bench of this Tribunal by P.K. Kuttinair as O.A No. 857/94. It was decided on 06.12.94. The direction given by the Bench was as under :-

" The applicant has to be given notional promotion from the earlier date if it is necessary to prepone the date of his promotion as Office Superintendent. If on the basis of final seniority list that has to be prepared, any vacancy was available for consideration for the promotion of the applicant to the post of S.G.O and later Establishment & Accounts Officer and if the applicant is selected for the same, he has to be given notional promotion in regard to those posts from the date of the availability of the vacancy for his turn. If any of the juniors was given promotion from the date earlier to the date of availability of the vacancy referred to, and if that junior is not going to be reverted after finalisation of the seniority list in respective cadre, the applicant has to be given notional promotion from the date the junior's was given promotion in the respective cadre. "

4. The Bench followed the judgement of Karnataka High Court, which became final after dismissal of the appeal by

Hon'ble Supreme Court on 10.07.90. The seniority list of the U.D.Cs was to be re-cast and was to be prepared from the date of joining as U.D.C. Other cases registered as O.A No. 675/95, P. Arvindakshan Vs. U.O.I & Ors and O.A No. 1065/95 P.D Sharma Vs. U.O.I & Ors. were also filed, in which similar reliefs were given. The respondents, however, adopted attitude to give relief only to those who obtained orders from the Tribunal and seniority list with regard to others remained unchanged. This gave rise to filing of the present O.As. In our opinion, since the dispute was already settled by the judgements of the Karnataka High Court and Hon'ble Supreme Court and by the orders of this Tribunal, the department ought to have corrected the entire seniority list , according to directions, to avoid further litigation, learned counsel for applicants has placed before us the order passed by respondents on 05.07.00, by which the orders passed by Tribunal in favour of P.D Sharma and Hardyal Singh have been carried out now, and corrected seniority list was issued. Seniority list has been placed before us which has been annexed as annexure A- 1 to O.A No. 680/95. A perusal of which shows that applicant L.M. Sharma has been shown at. Sl. No. 250. His date of appointment as U.D.C is mentioned as 13.04.76 but at Sl. No. 229, N.D. Joshi with the date of appointment 23.07.1976 has been shown senior to the applicant. Similar is the position at Sl. No. 226 and 225. Below Sl. 250 (L.M. Sharma) also there appears to be anomaly so far as others who joined before applicant have been shown junior to him.. Thus the seniority list required correction, as it was not in consinance with the judgement of Karnataka High Court and the orders passed by different Benches of this Tribunal. In our opinion, these applicants are also entitled for similar benefit which has been given to other applicants by this Tribunal. The O.As are accordingly disposed of with

the direction that seniority list shall be corrected strictly in terms of judgement of Karnataka Hogh Court and orders of this Tribunal given by different Benches with consequential benefits.

5. In case of J.P. Mehta and Ors. Vs. U.O.I & Ors. (O.A. No. 642/96)however, position is different. As these three applicants filed this O.A long after their retirement, they will not be entitled for any monetary benefit or any arrears except for re-fixation of their pension from the date of this judgement. Before parting with this case we observe and hope that the department shall correct the entire seniority list so as to bring it in consonance with the judgements of Karnataka High Court and orders of this Tribunal, to avoid further litigation in this regard.

6. There will be no order as to costs.

SD/ SD/
Member (A) V.C