

# CENTRAL ADMINISTRATIVE TRIBUNAL

## AHMEDABAD BENCH

**O.A.NO.** 459/90  
**T.A.NO.**

DATE OF DECISION 13.01.1998

Shri Omprakash Satija Petitioner

Mr. R.K. Mishra Advocate for the Petitioner [s]  
Versus

Union of India and Others Respondent

Mrs. P. Safaya & Mr. Akil Kureshi Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V. Ramakrishnan, Vice Chairman

The Hon'ble Mr. T.N. Bhat, Member (J)

### JUDGMENT

- 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 it needs to be circulated to other Benches of the Tribunal ? ✓



Shri Om Prakash Satija,  
ASW, Commander Works Engineer,  
MES, Makarpura,  
Baroda.

... Applicant

(Advocate: Mr. R.K. Mishra)

VERSUS

1. Union of India  
(Through Secretary,  
Ministry of Defence,  
South Block,  
New Delhi).
2. Engineer-in-Chief,  
M.E.S., Army Headquarters,  
New Delhi - 110 011.

... Respondents

(Advocate: Mrs. P. Safaya & Mr. Akil Kureshi)

ORAL ORDER

O.A./459/90

Dated: 13.01.1998

Per: Hon'ble Shri V. Ramakrishnan, Vice Chairman

We have heard Mrs. Safaya for the respondents and we have also gone through the materials on record.

2. The applicant, an officer in the Engineering Establishment of the Army is aggrieved by the non-inclusion of his adhoc service at the level of Assistant Surveyor of works (ASW) while determining the seniority in the post. He had prayed that he should be considered for further promotion by being placed in an appropriate slot in the seniority list of Assistant Surveyor of works taking into

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account the date of 5.7.94 which is the date on which he started functioning as ASW on adhoc basis. He also says that his adhoc service should also count for the purpose of counting the qualifying service for promotion to the higher level of Surveyor of Works. Subsequent to filing the OA, he filed an MA which was allowed by which he had substituted the seniority list dt. 12.10.90 for the earlier seniority list dated 20.8.90. He submits that a person who has been promoted as ASW in the year 1986 has also been included in that seniority list whereas his name has not been so included even though he got promoted in the year 1984.

3. Mrs. Safaya for the respondents states that the applicant's seniority cannot be determined from the date of his joining on adhoc basis but only from the date he was appointed as ASW on a regular basis. Appointment on an adhoc basis is made on the basis of seniority-cum-fitness whereas a more detailed procedure is laid down for granting regular appointment as it is a selection post. It is also necessary to keep in view the number of vacancies that are available in each year taking into account the fact that there is a quota for the Direct Recruits apart from promotees. The applicant was considered against the vacancies for promotees pertaining to the year 1985 but could not be empanelled due to lesser number of vacancies in relation to his position in the seniority. She goes on to submit that he was considered against the vacancies pertaining to the year 1986 and the DPC finalised the same

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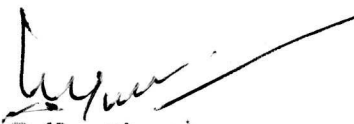
in January, 1990 and the panel was published in March, 1990. The applicant's name figured in the panel for regular promotion as ASW and he would get his seniority at the level of ASW from the date of his regular promotion. Adhoc service cannot be counted for assigning seniority and there are a number of court judgements on the subject stating that even though an adhoc appointee, had continued temporarily for a long period, such continuance would not be treated as a regular service. To illustrate, she refers to the case of Shri Bhagwan Chand and Others vs. Union of India decided by the Patna Bench of the Tribunal on 3.8.95. (Swamy Manual 336 (Patna) 3.8.95 in OA/487/95). This position is now well-settled and the applicant has no right to count his adhoc service for the purpose of reckoning seniority and such a benefit will be available only from the date of his regular promotion. As regards the period of service for the purpose of qualifying service for the next higher level, the respondents agree that adhoc service followed by regular service would also count for the purpose of determining qualifying service for the next higher level. The applicant did not get regular appointment against the promotion quota for the vacancies of 1985 but got such appointment only in 1986 keeping in view his seniority in the surveyor cadre. As regards the contention that a person who was appointed in 1986 also figures in the seniority list at Sl. No.76, this relates to one Shri Sanjay Mangal who was appointed on 20.01.86. Shri Mangal is a holder of BE degree and was appointed against the Direct Recruit quota. He, no doubt,

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joined in January, 86 but this pertains to the vacancies of the earlier year. According to Mrs. Safaya, this could not be a ground for the applicant to assail the seniority list as he cannot compare himself with the position of Direct Recruits.

4. Mr. Mishra, learned counsel for the applicant initially was not present. He appeared later and made his submissions. However, there is no convincing rebuttal of the contentions of the respondents.

5. We find ~~no~~ merit in the stand of the respondents and we hold that this OA is devoid of merit and dismiss the same. No costs.

  
(T.N. Bhat)  
Member (J)

  
(V. Ramakrishnan)  
Vice Chairman

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