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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR

Date of order : 12.9.1997

O.A. No. 240/95

Bhanwarlal and 6 others ... Applicants.

v e r s u s

Union of India & 12 others ... Respondents.

Mr. R.C. Gaur, Counsel for the applicants.

Mr. M.S. Singhvi, Advocate, Brief holder for Mr. R.K. Soni,
Counsel for the respondents Nos. 1 to 5.

Mr. M.R. Singhvi, Counsel for the respondents Nos. 6 to 9
and 11 to 13.

None present for the respondents No. 10.

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman.

Hon'ble Mr. O.P. Sharma, Member (Adm.).

PER HON'BLE MR. O.P. SHARMA :

When the O.A. was listed for hearing on 9.9.1997, the learned counsel for the respondents had prayed that the interim direction given by this Tribunal on 6.6.1995 should be vacated. Accordingly, the O.A. was listed on 10.9.1997 for hearing arguments on the prayer for vacation of the interim direction. The learned counsel for the parties were heard on 10.9.1997 on the limited question whether the interim direction granted on 6.6.1995 should be vacated.

2. Detailed submissions were made by the learned counsel for the parties for and against the prayer for vacation of the interim stay order. The learned counsel for the applicants stated that the seniority of the applicants which had been revised by orders Annexures A/1 and A/2 had earlier been correctly fixed and there was no

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justification for revising it. The O.A. had already been listed for hearing. Pleadings are complete. Therefore, the O.A. should be heard and disposed of finally by the Tribunal rather than vacate the interim direction granted on 6.6.1995. He added that there was strong prima facie case in favour of the applicants and it would not be in the public interest to grant promotion to the respondents when they were not entitled to it in preference to the applicants. He argued that irreparable loss would be caused to the applicants in case the interim direction was vacated and promotions to the post of Head Clerk are made in accordance with the seniority list (Annexure A/1).

3. The learned counsel for the official respondents cited a judgement of the Hon'ble Supreme Court, Rana Randhir Singh & Others vs. State of U.P. and Others, AIR 1989 SC 218. He urged that interim orders in matters relating to inter se disputes of seniority between Government servants which hold up hands of the Government in implementing the rules should ordinarily not be made. He further stated that no irreparable injury would be caused to the applicants if the promotions were to be gone ahead on the basis of the seniority lists (Annexures A/1 & A/2). He stated that if the Tribunal holds that the applicants are senior to the respondents, they would be entitled to promotion in preference to the respondents from the date from which they were due for promotion and arrears of pay would be granted to them while granting the promotion from a retrospective date. Therefore, the applicants would stand compensated in money terms for whatever injury they suffer as a result of the vacation of

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interim direction. He further stated that the department is facing great difficulties in carrying on its day-to-day work because of non-filling of posts, due to the interim directions of this Tribunal which have barred promotions being granted to the post of Head Clerk. He accepted that the applicants had an arguable case, but the balance of convenience was not in favour of them. The learned counsel for the private respondents stated that the orders Annexure A/1 and A/2 by which the seniority had been revised had been passed in compliance with the Tribunal's order in O.A. No. 341/1988 passed on 5.6.1991. He, therefore, stated that the interim direction issued by the Tribunal amounts to staying of the operation of the order of this Tribunal itself.


4. We have heard the learned counsel for the parties.

5. It would not be proper for us to express any opinion at this stage about the merits of the case when we have not heard arguments in detail thereon. All that we can say at this stage is that there is no direction in the Tribunal's order dated 5.6.1991 passed in O.A. No. 341/1988, *Devi Singh & Others vs. Union of India* and another, regarding revision of seniority. The issue of the seniority is entirely open. The judgement cited by the learned counsel for the official respondents is on facts quite different from those in the present case. We have also carefully considered the arguments of the learned counsel for the official respondents regarding the difficulties being faced by the department in not being

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able to grant promotions to the post of Head Clerk and the balance of convenience not being in favour of the applicants. After considering all the arguments, we are still of the view that the interim direction need not be vacated at this stage. The prayer for vacation of interim direction is, therefore, rejected.

6. It is ofcourse necessary that the O.A. should be finally heard and disposed of at the earliest possible. The O.A. may be listed before a D.B. on 13.10.1997. If no D.B. is formed on that date, it may be adjourned to the first available date on which the D.B. would be formed. The counsel for the parties can then make a prayer before the D.B. on the date on which it is fixed, for granting preference to hearing of this case.


(O.P. SHARMA)
Member (A)


(GOPAL KRISHNA)
Vice Chairman

cvr.