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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH,
JODHPUR**

O.A. No.92/2002

Decided on : 27th April, 2007

CORAM:

HON'BLE MR. JUSTICE M. RAMACHANDRAN, VICE CHAIRMAN
HON'BLE MR. R.R.BHANDARI, ADMINISTRATIVE MEMBER

B.D. Charan S/o Shri Akheden Ji Charan, aged about 52 years R/o Indira Nagar Barmer near Akashwani, Barmer, official address Inspector Income Tax, Office of Income Tax Officer, Jaisalmer.

.....Applicant

Versus

- 1. The Union of India through the Secretary, Ministry of Finance, Department of Revenue, Government of India, New Delhi.
- 2. The Chief Commissioner of Income Tax (Administration), Central Revenue Building, Bhagwan Das Road, Jaipur.
- 3. The Commissioner of Income Tax, Jodhpur II, Jodhpur.
- 4. Sunil Verma S/o Sh. Dula Ram Kumawat, Inspector Income Tax R/o Qr. No.67, Income Tax Colony, Jyoti Nagar, Jaipur.
- 5. Pramod Goyal S/o Sh. Shri Chand Goyal, Inspector, Income Tax, R/o Adarsh Block Mahaveer Nagar, Tonk Road, Jaipur.
- 6. Bhagirath Lal Gupta, Inspector, Income Tax, Office of CIT, Kota.

.....Respondents

- Present : Mr.Kamal Dave, Advocate for applicant.
- Mr.Mahendra Godara Advocate for
- Mr.Vineet Mathur, Advocate for respondents.

ORDER

JUSTICE M. RAMACHANDRAN, V.C

The applicant is working as Income Tax Inspector. Aggrieved by the seniority list dated 22/28.1.2002, in so far as it affects his seniority position vis-a-vis respondents no.4 to 6 and apprehending possible reversion, he challenges the same and prays for a direction to restore his position as per the earlier seniority list of 1998. He submits that Annexure A-3, seniority list, had been prepared taking due notice of all relevant aspects and respondents No.4 to 6 were

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shown as ranking below him. In fact, had taken notice of the date of entry in service of incumbents. The private respondents as above had joined department after 4 years, from the date of promotion of the applicant as UDC. The representation submitted by him, when such position was altered, have been negated by respondents informing him that said personnel had been selected by the SSC through examination conducted in 1982 though appointed after the date of his promotion, in law they were entitled to be accommodated against the vacancy position available as on ^{date} ~~that of~~ selection.

2. In view of the interim orders, the applicant has not been subjected to reversion.

3. Learned counsel for applicant submits that it may not be necessary to adjudicate the issue in detail as the legal question has been already explained by the Tribunal in O.A.No.270/2002 and connected cases titled **R.K. Bohra & Others Vs. Union of India & Others**, decided on 8.9.2003. He specifically refers to para no.17 wherein it has been held that "keeping in view the principle enunciated in the above cases (**Jagdish Chand Patnaik & Ors. Vs. State of Orissa and Ors.** [1998 (4) SCC 456] and **Suraj Parkash Gupta and others vs. State of J & K and Others** [2007 (7) SCC 561]), it has to be held that Shri Manmohan, Shri Bhavani Singh Mathur and Shri Khem Chand direct recruits were entitled to have their seniority fixed on the dates of their joining in the cadre and not on the basis of the year of vacancies of their recruitment. The official respondents have erred in assigning the seniority position to them above Shri Bothra and Shri Rathore".

4. According to the applicant the observation squarely is applicable to his claims as well, as he was similarly situated and benefit was conferred on the private respondents only on

circumstances that they had qualified in a test held in 1982 for the vacancies which were in existence at that time. He submits that the earlier order of Tribunal has attained finality. Additionally he also refers to the orders passed by the Government of India dated 11.5.2004 on the same lines. A query raised as contained in F.No.A 12021/2/2004 Ad.VII dated 11.5.2004 issued by Government of India, Ministry of Finance, Department of Revenue, CBDT, New Delhi, has been answered in the following lines :

Point / equerry raised	Clarification
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Whether direct It is clarified by recruit Inspectors DOP&T that Direct should be given Recruits seniority vis-seniority of year in a-vis the promotees is which selection reckoned from the process initiated or year in which they are vacancy occurred naturally recruited. or otherwise. DRs cannot claim seniority of the year in which the vacancies had arisen. The question of grant of seniority to DRs of the period when they were not even in service does not arise.

The above is in line with the decision of Tribunal and pertains to the Income Tax Department where same question of inter-se seniority of direct recruits and promotee had arisen.

Respondents

5. Learned counsel for Revenue does not dispute about the existence of the judgement and the clarification issued as above. If that be the position, we feel that the applicant will be entitled to the relief prayed for by him. Consequently, it is declared that the applicant will have to be accorded seniority over Respondents No.4 to 6, and his seniority as assigned in 1998 seniority list, has to be restored. We direct the respondents to draw a seniority list to reflect this position.

6. We also note that although notice was served on private

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respondents and reply has also been filed by respondents no.4 & 5,

We had no assistance from private respondents. However, their interest has been taken care of by the official respondents but the legal position stands against them.

7. The O.A. is disposed of in above terms. We make no order as to costs.

R.Bhandari

(R.R.BHANDARI)
Administrative Member



(JUSTICE M.RAMACHANDRAN)
Vice Chairman

M.Ramachandran

(JUSTICE M.RAMACHANDRAN)
Vice Chairman

HC*

Copy of order sent to RPPOLB
W no/02 to 102, d+9.5.07

Part II and III destroyed
in my presence on 03-6-14
under the supervision of
section officer () as per
order dated 26-7-14

Section officer (Record)

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