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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application Nos.309/2007

Date of decision: 17.08.2010

Hon'ble Mr. Justice Syed Md Mahfooz Alam, Judicial Member.

Hon'ble Mr. V. K. Kapoor, Administrative Member.

C.P. Sharma, S/o late Shri Ghanshyam Sharma, aged 58 years, Assistant in the Office of Assistant Garrison Engineer (I) (R & D), Defence Lab, Jodhpur resident of 13-B Gayatri Vihar, Ratanada, Jodhpur.

: applicant.

Rep. By Mr. Kamal Dave : Counsel for the applicant.

Versus



1. The Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, Government of India, New Delhi.
2. Army Head Quarters, Engineer-in-chief's Branch, Kashmir House, DHQ, PO New Delhi. 110 011
3. Head Quarters, Chief Engineer, southern Command, Pune 01
4. Chief Works Engineer (Army) Multan Lines, Jodhpur.

: Respondents.

Rep. By Mr. Kuldeep Mathur : Counsel for the respondents.

ORDER (oral)

Per Mr. Justice S.M. M. Alam, Judicial Member.

The applicant, Shri C.P. Sharma, who is presently working as Assistant in the Office of Assistant Garrison Engineer (I) (R & D) Defence Lab Jodhpur, has preferred this O.A claiming following reliefs:

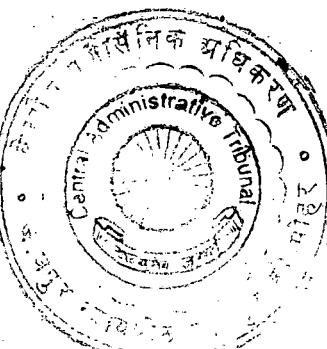
- 1) That the original application filed by the applicant may kindly be ordered to be allowed and by an appropriate order or direction the impugned seniority list to the extent the same apply different criteria for determining the seniority position may be declared illegal and may be quashed.
- 2) That the respondents may be directed to consider date of initial appointment as date for determining seniority by declaring that date considered of joining against compassionate transfer is illegal.



- 3) Any other appropriate order or direction, which may be considered just and proper in the light of above, may kindly be issued in favour of the applicant.
- 4) Costs of the application may kindly be awarded in favour of the applicant.

2. The brief facts of the case are as follows:

The applicant entered into service as CSBO under Southern Command in the year 1971. In the year 1972, due to abolition of CSBO posts, the applicant was accommodated under CWE Bhopal and joined as LDC with MES department. On 12.03.1977, he was transferred to Jaipur on compassionate basis. The seniority of the applicant was counted from the date of his joining at Jaipur i.e. from 12.03.1977, as per seniority list dated 04.12.1999 (Annex. A/1). It is stated that in view of CPRO No. 11/1975 and CPRO 73/73 (Annex. A/2), seniority of personnel centrally controlled on Corps/service roster adjusted prior to 01.07.1973, is not to be disturbed under the revised policy. The seniority list issued under Annex. A/1 was challenged by number of employees and one of them is T.K.K. Joseph, who preferred O.A. No. 1589/93 before the Madras Bench of the Central Administrative Tribunal. The said O.A was decided on 11.07.1996, in favour of the applicant of the said O.A and the Tribunal directed the respondents to restore the seniority of the applicant from the date of his initial appointment. The Tribunal further directed that the seniority of the applicant should not be revised with effect from 13.01.1977. The Tribunal also directed that other similarly placed persons should also be given the same treatment as the applicant in O.A. No. 1589/1993 in the matter of fixation of seniority. It has been stated that the




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present applicant's case is exactly similar to the case of Shri T.K.K. Joseph (applicant in O.A. No. 1589/1993 before the Central Administrative Tribunal, Madras Bench). It is further stated that similar controversy was involved in O.A. No. 1372/96, (Ramakrishna Pillai vs. UOI and ors.) before the Central Administrative Tribunal, Ernakulam Bench and the Ernakulam Bench was pleased to allow the O.A with a direction to the respondents for prefixing the seniority of Ramakrishna Pillai after counting the services under the Central Government. The order of Ernakulam Bench has been annexed as Annex. A/3.

It is stated that Union Of India, preferred Special Leave Petition before the Apex Court against the order of the Madras Bench, but the same was dismissed vide order dated 01.02.1999 (annex. A/4). Thereafter the applicant approached the respondents for granting the same benefits by submitting a representation dated 31.07.2006 (Annex. A/5). But the respondents did not grant any relief to the applicant and thereafter the applicant has preferred this application.

3. On filing of the application, notices were issued to the respondents and in compliance of the notices the respondents made appearance through their lawyer and filed reply to the O.A. In the reply the respondents have stated that the SLP preferred against the order of the Madras Bench passed in O.A. No. 1589/93, was never dismissed on merit but it was dismissed on the ground of delay. So the contention of the applicant that on merits the

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order of the Madras Bench passed in O.A. No. 1589/93 has attained finality is not correct. It has further been stated by the respondents that against the order of the Ernakulam Bench passed in O.A. No. 1372/96, the UOI preferred OP No. 1571/1999 (S), which was decided on 12.09.2006 and by the judgement passed in the said OP, the Hon'ble High Court of Kerala has been pleased to allow the OP filed by the UOI and the order passed by the Ernakulam Bench in O.A. No. 1372/96 was set aside. The respondents have annexed the said judgement of the Hon'ble High Court of Kerala as Annex. R/1 and on that basis the respondents have prayed to dismiss this O.A.



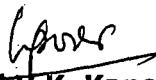
4. Heard the learned advocates appearing for both sides. During the hearing the learned advocate of the respondents drew our attention towards the judgement passed by the Hon'ble High Court of Kerala at Ernakulam, in the case of UOI represented by Secretary to the Government of India, Ministry of Defence, New Delhi and others vs. B. Ramakrishna Pillai and anr, bearing OP No. 1571/99 (S), by which the Hon'ble High Court of Kerala has been pleased to allow the OP filed by the UOI and ors setting aside the order of the Ernakulam Bench of this Tribunal dated 10.09.1998, passed in O.A. No. 1372/96. Relying on the above judgement of the Hon'ble High Court of Kerala, the learned advocate appearing for the respondents submitted that the issue involved in the present case is covered by the judgement of the Hon'ble High Court of Kerala, as the applicant herein is similarly situated as the

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applicant before the Ernakulam Bench and the issue involved is also the same in both the cases. The learned advocate appearing for the applicant also conceded that the issue involved in the present case is covered by the judgement of Hon'ble High Court of Kerala passed in OP No. 1571 of 99 (S).

5. Considering the arguments of both sides and considering the fact that the case of the applicant is similar to the applicant in O.A. No. 1372/1996, before the Ernakulam Bench of this Tribunal and as the Hon'ble High Court of Kerala has been pleased to allow the OP filed by the Union of India setting aside the order of the Ernakulam Bench of this Tribunal, we are of the view that no relief can be granted to the applicant herein. In such view of the matter we have not other alternative except to dismiss this O.A. in the light of the judgement of Hon'ble High court of Kerala passed in OP No. 1571/99(S).

6. In the result the O.A stands dismissed. However, there will be no order as to costs.


[V.K. Kapoor]
 Administrative Member

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[Justice S.M.M. Alam]
 Judicial Member.