

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.2323/93 and O.A.74/94

Tuesday, this the 22nd day of November, 1994.

CORAM:

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

O.A.2323/93

LR Sasikumar,
S/o late V Raghava Menon,
Assistant,
Regional Passport Office,
Cochin.

- Applicant

By Advocate Mr MR Rajendran Nair

Vs.

1. The Regional Passport Officer,
Cochin-11.
2. The Chief Passport Officer,
Ministry of External Affairs,
New Delhi.
3. Union of India represented by
Secretary to Government of India,
Ministry of External Affairs,
New Delhi. - Respondents.

By Advocate Mr C Kochunni Nair

O.A.74/94

1. MA Sudarshana Babu,
S/o Ayyappan, U.D.Clerk,
Regional Passport Office,
Ernakulam.
2. S Sadananda Bhat,
S/o K Sreenivasa Bhat,
House No.4/1114,
North Cherlai, Cochin-2,
U.D.Clerk, Regional Passport
Office, Ernakulam. - Applicants

3. AN Mohanan,
S/o AK Narayanan,
U.D.Clerk,
Regional Passport Office,
Ernakulam.
4. KA Cherian,
S/o KC Abraham,
U.D.Clerk,
Regional Passport Office,
Ernakulam.
5. KK Ambujakshy,
W/o V Mohanan Pillai,
U.D.Clerk,
Regional Passport Office,
Ernakulam.
6. M Rajappan,
S/o ES Madhavan Nair,
U.D.Clerk,
Regional Passport Office,
Ernakulam.
7. PK Ashokkumar,/
S/o PC Kesavan,
U.D.Clerk,
Regional Passport Office,
Ernakulam.
8. TV John,
S/o late TK Varkey,
U.D.Clerk,
Regional Passport Office,
Ernakulam.
9. Sathiamma.N,
W/o K Muraleedharan Unnithan,
U.D.Clerk,
Regional Passport Office,
Ernakulam.
10. VP Joy,
S/o KV Philipose,
U.D.Clerk,
Regional Passport Office,
Ernakulam.
11. Kumari Bosco,
W/o Bosco, U.D.Clerk,
Regional Passport Office,
Ernakulam.

By Advocate Mr MR Rajendran Nair

Vs.

1. Union of India represented by
Secretary to Government,
Ministry of External Affairs,
New Delhi.

- Respondents

2. The Chief Passport Officer,
Ministry of External Affairs,
New Delhi.
 3. The Regional Passport Officer,
Ernakulam.
 4. Shri PVS Pillai, U.D.Clerk,
Regional Passport Office,
Trivandrum.
 5. Sreeranjini, U.D.Clerk,
Regional Passport Office,
Trivandrum.
- Respondents

By Advocate Mr C Kochunni Nair (for R.1 to 3)

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

These two cases are taken up and disposed of together since they relate to the same subject matter.

2. Applicants are Upper Division Clerks in the Regional Passport Office, Ernakulam. They were recruited as Lower Division Clerks on different dates following a procedure after being sponsored by the Employment Exchange and were regularised on the same date i.e. 8.12.1978. Their grievance is that the seniority list of officers(A-IX) in Grade VI (UDC Steno) as on 1.7.1993 does not show them in the order in which they had been recruited as Lower Division Clerks. Their contention is that their seniority should follow the order in which they entered service after being recruited initially as Lower Division Clerks.
3. Respondents have stated that the seniority of the applicants was fixed from the date of regularisation and

according to their date of birth in accordance with the existing rules.

4. The Recruitment Rules under which the date of birth is the prescribed criterion have not been produced. It appears that following such a rule may result in inequities particularly where the persons, though regularised on the same date, have different lengths of service prior to regularisation. No doubt in this case, such service was only in the daily rated category. But taking into account such service for purpose of inter se seniority would be more reasonable and relevant than going by the dates of birth of the various persons concerned. Learned counsel for applicants stated during the hearing that in earlier seniority lists prepared by the Department, the respondents had followed the rule of taking into account the period of service put in by the employees after recruitment.

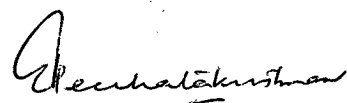
5. Applicants have made representations, AVI, AVII and AVIII which have been disposed of by AI order. This order merely states that it has been clarified that the service rendered on daily rates cannot be counted for the purpose of seniority. There is no reference to what is to be done in the case where several persons are given the same date of appointment and how the inter se seniority of such persons is to be fixed. The order AI does not meet the contentions raised by the applicants in their representations.

6. We accordingly quash AI and direct respondents to reconsider the matter in the light of the observations made above. Applicants are permitted to make a fresh representation setting out comprehensively the position in the light of the various decisions cited during the hearing, namely, Dr KP Hajela Vs. NS Verma and others(AIR 1986 SC 1638), Keshav Chandra Joshi and others V. Union of India and others(AIR 1991 SC 284), Rajbir Singh and others V. Union of India and others(1992) 19 ATC 315), GP Doval and others V. Chief Secretary, Government of U.P. and others(AIR 1984 SC 1527) and the Direct Recruit Class-II Engineering Officers' Association and others V. State of Maharashtra and others(AIR 1990 SC 1607). Such a representation may be made within fifteen days from today to the second respondent. The said respondent shall consider such representation and examine the matter comprehensively in the light of the various decisions of the Courts in the matter. A final view should be taken by respondents on the representation within three months of the date of its receipt and the decision will be communicated to applicants.

7. Applications are disposed of as above. No costs.

Dated, the 22nd November, 1994.


P SURYAPRAKASAM
JUDICIAL MEMBER


PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

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List of Annexures

1. Annexure-A1 : True copy of the Memo No.78(17) AD/Ker/91 dated 29.10.93 issued by 3rd respondent to the 1st applicant.
2. Annexure-AVI: True copy of the representation dated 14.1.93 submitted by the 1st applicant to the 2nd respondent.
3. Annexure-AVII: True copy of the representation dated 10.6.93 submitted by the 1st applicant to the 1st and 2nd respondents.
3. Annexure-AVIII: True copy of the representation dated 24.9.93 submitted by 1st applicant to the 1st and 2nd respondents.
4. Annexure-AIX: True copy of the Office Memo No.V.IV/ 682/5/93 dated 20.8.93 along with seniority list of Grade VI (UDC/Steno) issued by 1st respondent to all passport offices in India.