

U.S.A.P. vide order dated 19th October, 1934. Now the applicant claims for reverse seniority in view of the Arts 26-41 of CSR Vol I which reads as follows;

"When a person is transferred with work from one department to another Central Government department, the seniority will remain unchanged and filled in the interrupted grade on the basis of continuous regular service in the grade subject to inter-departmental seniority in the respective grade to be maintained."

Now, vide order dated 11.6.1935, the Board ordered promotions from STS grade to STB in respect of 109 officers in STB grade below to all the subject as enumerated in sub para (c) above, and it was done by drawing a common seniority of the STB. The grievance of the applicant is that the principle of seniority as was published as per para 27 below Art. 26 of CSR Vol I, was not followed. The principle on which reliance has been placed reads as follows;

"4 Direct Recruits: Notwithstanding the provisions of para 3 above, the relative seniority of all direct recruits shall be determined by the order of merit in which they are selected for since appointment on the recommendations of the SSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of subsequent selection."

The applicant's grievance is that the seniority list has not been drawn in accordance with the principle stated above. As a result of which, the applicant's date of appointment in STS on 29.7.1933 has been ignored and at least 20 officers much junior to the

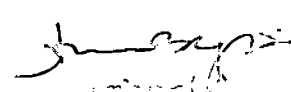
applicant have been promoted. All these particulars have been detailed out by the applicant in his application. Feeling aggrieved, the applicant filed representation before the departmental authority but the same evoked no response that is why he approached the Tribunal.

3. The respondents have resisted the claim of the applicant by stating that the post of Junior Administrative Officer (Officer Grade) is a selection post. The applicant was duly considered by the Departmental Promotion Committee as per Rule for the selection post. He has not been recommended by the Departmental Promotion Committee for promotion as sufficient persons senior to him were available for such recommendations as per the vacancies available. The seniority of the applicant has been carefully fixed in consultation with the Department of Personnel/Union Public Service Commission etc. and he has been considered by the relevant Departmental Promotion Committee, and the claim of the applicant has no merit. There is inherent contradiction in the pleadings of the respondents. At one place, they have stated that his case was considered by the Departmental Promotion Committee and yet in the same place, they have stated as the applicant was not senior and there are sufficient persons senior to him, the case of the applicant, as such, was not properly considered. If the conflicting versions could only mean that because the applicant was not considered senior enough for being promoted, his case was not considered by the D.P.C. on merit for the selection post. It is the case of the respondents that the applicant did not fulfil the requisite criteria.

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as he was not eligible or that he was not within
the zone of consideration. The post being a selection
post, it was for the respondents to consider
the case of applicant for the promotional post also, as
the seniority list has not been considered, as such,
it has got to be accepted that even though, the applicant
may have been senior to others, in this case, he becomes
junior to others as shown by the respondents in their
list. But, already known, the applicant was junior to
others, he would not have been eligible for the promotional
post, in case, he is selected to be made. It is
apparent that the SAC did not consider the case of
the applicant on the ground that he was not sufficiently senior and 20 persons
alone were in the zone of consideration, thereby falling into
an error and the department also committed the same
error.

4. In these circumstances, the application deserves
to be allowed and the respondents are directed to convey the
order to the SAC within a period of 3 months from the
date of communication of this order and to consider the
case of the applicant for the said promotional post.
Further and in case, the applicant is found fit for the
same, he ^{also} be promoted with effect from the date
his next junior has been promoted, and he will also be
given all the pensionary benefits. The application is
disposed of with the above directions. Parties to bear
their own costs.


Dated: 24.1.1954.
(M.U.)


Vice-Chairman