

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, P A T N A

O.A.No.: 132 of 1996.

(Patna, this ~~Tuesday~~, the 29th Day of June, 2004).

C O R A M

Hon'ble Smt. Shyama Degra, Member (Judicial).

Hon'ble Shri Mantreshwar Jha, Member (Administrative).

Kishore Kumar, son of Late Sheo Pujan Ram, resident of
village Dharampur, P.O.: Kalodihari, Police Station Chowri,
District Shejpur. APPLICANT.

By Advocate :- N o n e.

Vs.

1. The Union of India through the Secretary of Govt. of India, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi-110 011.
2. The Under Secretary to the Govt. of India, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi-11.
3. The Regional Director, Health and Family Welfare, Dauara House, Salimpur Ahra, Patna-800 003.
4. Shri B.B.Sinha, son of not known to the applicant, C/o Office of the Regional Director, Health and Family Welfare, Dauara House, Salimpur Ahra, Patna-800 003.
5. Ranjan Vikas, son of not known to the applicant, C/o Office of the Regional Director, Health and Family Welfare, Dauara House, Salimpur Ahra, Patna-800 003.
6. Ashok Kumar, son of not known to applicant, C/o Office of the Regional Director, Health and Family Welfare, C-2, B/80, Mahanagar, Lucknow-226 006.

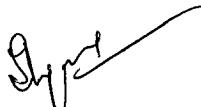
.... RESPONDENTS.

By Advocate :- N o n e.

O R D E R
(ORAL)

Shyama Degra, Member(J) :- Since neither the applicant has appeared in person nor through his counsel and nobody has appeared on behalf of the respondents, including the private respondents, therefore, the matter, being of 1996, is hereby disposed of under Rule 15(1) of the Central Administrative Tribunals (Procedure) Rules, 1987, on the basis of material available on record.

2. Applicant has impugned the provisional seniority list published by the respondents vide letter dated, the 13th July, 1995 (Annexure-3) and letter dated, the 19th December, 1995 (Annexure-4), with prayer to place applicant above the private respondents no. 4, 5 & 6 in



the seniority list from the date of his initial entry into the cadre of Evaluation Assistant.

3. Briefly, the facts of the case, as set-out by the applicant, are that the applicant, alongwith other incumbents, including the private respondents no. 4 to 6 were selected pursuant to the common selection process in February, 1984, for the post of Evaluation Assistant. Initially, the applicant was placed at right place in the seniority list published in the year 1993-94, however, vide letter dated, the 13th July, 1995, the respondent no.2 has placed the applicant at sl.no.3 while pushing him down from his place and showing the private respondents above the applicant vide Annexure-3 which compelled the applicant to make repeated representations in but in vain. However, he was intimated vide Annexure-4, dated, the 19th December, 1995, while rejecting his representation to the effect that the said provisional seniority list has been treated as final.

4. The main grievance of the applicant is that he joined as Evaluation Assistant on 25th July, 1984, whereas, private respondents have joined on 05.11.84, 30.11.84 & 26.07.84 respectively; therefore, apparently they were all junior to the applicant and they could not have been placed above him in the said seniority list. Moreover, these private respondents have never raised any objection with regard to showing their names in the said seniority list below the applicant.

5. During the pendency of this OA the applicant has sought amendment of the prayer clause which was allowed to the effect to consider the case of the applicant for promotion to the post of Evaluation Officer in the DPC scheduled to be held on 06.08.1996 or thereafter.

6. The respondents, including the private



respondents, have filed their written statement. So far as factual position is concerned, the respondents have not denied the same. However, the main submission of the respondents are that at the time of issuance of draft seniority list representations of ~~fix~~ many Evaluation Assistants, including one from Ranjan Vikas, for omission of his name from the said list were received and, therefore, a revised seniority list, including the name of Ranjan Vikas, was sent to him in May, 1994. This revised seniority list was prepared on the basis of the appointment on the post of Evaluation Assistant, however, said Ranjan Vikas again represented the revised seniority list on the ground that since he was placed higher in the merit list issued by the Staff Selection Commission who had conducted the examination for the said post of Evaluation Assistant, therefore, the ^{enquiry} department made ~~query~~ from the Staff Selection Commission who informed that scheduled caste & scheduled tribe as well as Oriya Languages were nominated against their specific quota and while making seniority list they are usually below the general candidates and their seniority should be determined accordingly.

7. Accordingly, based on the guidelines/clarifications given by the Staff Selection Commission as well as, as per instructions of the Govt. of India's circulars in this regard a fresh provisional seniority list of Evaluation Assistant was prepared and circulated in July, 1995. The said guidelines prescribes that the relative seniority of all direct recruits shall be determined ⁱⁿ the order of merit in which they are selected for such appointment on the recommendation of UPSC or other selecting authorities; therefore, the applicant was given seniority in this revised provisional seniority list of 1995 according to the relative merit determined by the Staff Selection Commission in May, 1995, in reference to Ranjan Vikas.

Shyam

representation and again objections, if any, being invited for the purpose.

8. Therefore, it is the submission of the respondents that the applicant has no case whatsoever to upset the seniority list at such belated stage which would amount to creating a chaos as the applicant was down in order of merit in which these candidates were selected for such appointment.

9. The private respondents have also filed written statement and almost have taken the same stand as has been taken by the official respondents. They have further cemented their pleas while placing on record copy of said guidelines with regard to general principles for determination of seniority in the Central Services vide Annexure-I.

10. The said respondents have also enumerated the merit position of the candidates selected by the Commission, whereby, the applicant has been shown at sl.no. 7 below these private respondents.

11. No rejoinder has been filed by the applicant to rebut all these contentions as raised by the respondents.

12. We have carefully gone through the record and after perusal of Annexure-I, which are general principles for determination of seniority in the Central Services, we find the contents of Clause 4 thereof as under :

"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 such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection;

Provided that where persons recruited initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their appointment, seniority



shall follow the order of confirmation and not the original order of merit."

13. After careful examination of said clause it is clearly envisaged that the relative seniority of all direct recruits has to be determined by the order of merit in which they are selected for such appointment on the recommendation of the UPSC or other selecting authorities (SSC in the present case), meaning thereby, that who has got more marks in the competitive examination has to be placed on the top in order of merit as well as in the seniority list to be prepared by the department for such direct recruits.

14. It is nobody's case, moreover of the applicant, that his case is covered under the above referred proviso of Clause 4 which says otherwise that in case of confirmation of these direct recruited persons being initially appointed on temporary basis and are confirmed subsequently in an order different from the order of merit indicated at the time of their appointment, therefore, the applicant's case is otherwise also not covered under this proviso as he has failed to show this Court that his date of confirmation is prior to the date of confirmation of private respondents. Therefore, their seniority has to be determined on the basis of merit of these individuals as recommended by the Staff Selection Commission.

15. Moreover, since the matter pertains to the year 1996 and during the pendency of OA Court has also given direction to the respondents on 5th August, 1996, in the interim relief to the effect that the respondents shall consider the candidature of the applicant, alongwith others, in the DPC to be held on 06.08.1996 or thereafter subject to final outcome of the case; therefore, in view of the fact that applicant has not put his appearance in person or through his counsel, it appears that the applicant might have got appropriate relief with regard to consideration of his

name for further promotion to the post of Evaluation Officer which has resulted into losing interest in pursuing the present OA.

16. Otherwise also, since the seniority list of 1995 has been prepared on the basis of guidelines issued by the Govt. of India; therefore, we are not inclined to accept the prayer of the applicant to quash that seniority list after a lapse of almost nine years which would otherwise create chaos by unsettling the matter settled long time back.

17. Therefore, after overall analysis of the matter, we are of the considered opinion that the applicant has failed to substantiate his claim for any interference of this Court to quash the impugned orders as above. Therefore, the same are hereby upheld as these orders have been passed in accordance with law.

18. In view of these observations, this OA being devoid of merit is hereby dismissed and disposed of accordingly. No costs.

skj
(Mantrешwar Jha)
Member (A)

Shyama Dasgupta 9.6.04
(Shyama Dasgupta)
Member (J)