

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 812/88.

Transfer Application No:

DATE OF DECISION: 10/10/94.

S.D.Joshi

Petitioner

Shri M.R.Patil

Advocate for the Petitioners

Versus

Union of India

Respondent

Shri V.S.Masurkar

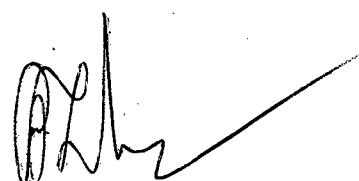
Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri B.S.Hegde, Member(J)

The Hon'ble Shri P.P.Srivastava, Member(A)

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?




(B.S.Hegde)
M(J)

(10)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, BOMBAY

Original application No. 812/88.

S.D.Joshi ... Applicant.

V/s.

Union of India & Ors. ... Respondents.

Coram: Hon'ble Shri B.S.Hegde, Member (J).
Hon'ble Shri P.P.Srivastava, Member (A).

Appearances:-

Applicant by Shri M.R.Patil.
Respondents by Shri V.S.Masurkar.

Oral Judgement :-

¶ Per Shri B.S.Hegde, Member (J) Dt. 10/10/94.

The main prayer in the OA is for allotment in the case of the applicant be changed from 1980 to 1979. In this connection, the Learned Counsel for the applicant submitted a tabular form for ready appreciation which reads as follows:-

Sr. No.	Name of Officer	Date of entry into State Civil Service	Date of continuous officiation in a senior time scale post.	Year of select list for entry into the Senior post.	Date of list for entry into IAS.	Year of allotment allotted.
1.	2.	3.	4.	5.	6.	7.
1)	Shri SD Joshi	16.6.65	16.07.83 (Cadre post)	1982	24.9.84	1980
2)	Shri SS Bhakre	18.6.65	04.08.83 (Cadre post)	1982	21.8.86	1979
3)	Shri MB Appalwar	18.6.65	17.11.83 (Ex.Cadre post)	1982	21.8.86	1979
4)	Shri SP Raje	27.7.65	05.08.83 (Ex.Cadre post)	1982	21.8.86	1979
5)	Shri SA Gaikwad	03.7.65	24.08.83 (Cadre Post)	1982	21.8.86	1979

In the light of the above statement, the Learned Counsel for the applicant submits, though Shri Bhakre, Shri Gaikwad and Shri Raje all were juniors to applicant, both in the State Civil Service and the Select List prepared for the IAS, they have been appointed and allotted for the year 1979. It is clear from the above chart, the applicant had been continuously working in the cadre post right from 1983 onwards and has entered into IAS in 1984 and he has been allotted the year 1980, whereas his juniors referred to above though have been working in adhoc cadre post in case of Shri Bhakre and Shri Gaikwad ^{and}, in ex-cadre post for Shri Raje, have been inducted into IAS in the year 1986 with year of allotment as 1979, earlier than the applicant.

It is crystal clear that the applicant has entered in IAS in 1984 and others in 1986 and the applicant was holding a cadre post and his selection was in the year 1984, others were much later.

The applicant having come to know the inconsistency in the allotment year prepared by the respondents submitted a representation on 30/6/87 requesting the respondents to re-fix his seniority conferring the benefit of continuous officiation as (it) was done in the case of others. He got a reply on 19/3/88 stating that his request cannot be acceded to. Thereafter, he filed this OA. In the course of hearing he drew our attention to IAS(Regulations of Seniority) Rules, 1987 wherein they have made an amendment to 3(3)(C) proviso which reads as under:-

"Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned to an Officer senior to him in that select list or appointed to the service on the basis of an earlier select list."

He also contented that the Cotation in Tiwari's case extends the benefit for those whose appointments are made after 11/10/85 is totally arbitrary and irrational and against the Principle of Natural Justice. It is a settled principle that an Officer appointed in any service cannot be pulled below his juniors in respect of seniority unless there

is a valid reason. Admittedly, the applicant is senior in the State Civil Service, Select List and appointment to IAS. That being so, there is no reason why he has not been given the allotment year of 1979 though his juniors have been given the 1979 allotment year. The applicant made a further representation on 16/10/92 so far there is no reply to the representation made and the respondent states that it is under consideration. In the circumstances, it would be in the fitness of things, a suitable direction be given to the respondents to dispose of the representation of the applicant.

Accordingly, we hereby direct the respondent-I Union of India - to decide the aforesaid representation of applicant within a period of four months from the date of receipt of this order and pass a speaking order keeping in view the ratio laid down by the Supreme Court in Tiwari's case and especially keeping in view of the cases of Shri Bhakre, Shri Gaikwad and Shri Raje. In case, the applicant is aggrieved of the order passed by the respondents in respect of his representation he is permitted to approach this tribunal as he deems fit.

With the above directions, the OA is disposed of.


(P.P. Srivastava)
M(A)


(B.S. Hegde)
M(J)