

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 141/96

DATE OF DECISION: 27/7/2000

Shri A.J.Halan & 4 Ors.

Applicant.

Mrs.K.U.Nagarkatti

-----Advocate for
Applicant.

Versus

Union of India & 2 Ors.

-----Respondents.

Shri R.K.Shetty

-----Advocate for
Respondents.

CORAM:

Hon'ble Shri B.S.Jai Parameshwar, Member (J)

Hon'ble Shri Govindan.S.Tampi, Member (A)

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

(GOVINDAN.S.TAMPI)
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:141/96
DATED THE 27TH DAY OF JULY,2000

CORAM:HON.SHRI B.S.JAI PARMESHWAR, MEMBER(J)
HON.SHRI GOVINDAN.S.TAMPI, MEMBER(A)

1. Shri A.J.Halan,
presently in Central
O.D.Dehu Road, Pune 412 101.
r/at 628/1, Sarvatranagar,
Dehu Road, Pune.
 2. Shri N.Sivankutty,
presently Sr.Store Keeper (SSK)
in COD Dehu Road,
Pune- 412 101.
 3. Shri B.S.Padmanabha,
Sr.Store Keeper (SSK)
COD Dehu Road,
Pune - 412 101.
 4. Shri V.S.Yadav,
Sr.Store Keeper (SSK),
COD, Dehu Road,
Pune - 412 101.

By Advocate Mrs.K.U.Nagarkatti

V/S.

1. Union of India,
thro' Secretary,
Ministry of Defence,
South Block,
New Delhi.
 2. Office in Charge,
AOC Records,
Post Box.No.3,
Trimulgherry,
Secunderabad - 15.
 3. The Commandant,
Central Ordnance Depot,
Dehu Road, Pune - 412 101.

By Advocate Shri R.K.Shetty

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(ORDER) (ORAL)

Per Shri Govindan.S.Tampi, Member(A)

Shri A.J.Halan and three others, all working in C.O.D., Dehu Road, have filed this OA No.141/96, seeking that they should be given the benefit of service rendered by them as Civilian School Masters for purposes of Seniority in their new post. All of them who were Civilian School Masters, on being rendered surplus were given fresh appointment at C.O.D., Dehu Road, Pune as LDCs and subsequently promoted as UDCs/Sr.Store Keeper. Though the posts to which they were re-appointed carried lesser scale of pay, they were given pay protection but they are presently claiming seniority also for the purposes of promotion, keeping in view the decision of Allahabad Bench of the Tribunal in a number of cases similar to theirs.

2. Respondents plead that a few other Benches of the Tribunal had taken contrary view and that the applicants claim do not deserve acceptance.

3. Today when the case came up before us, Shri R.K.Shetty, the learned Counsel for the respondents pointed out that this Bench also had decided the issue, in two OAs filed by identically placed applicants, following the decision of Supreme Court in the case of Union of India V/s. K.Savitri & Ors. (1998 SCC (L&S) 1134). In those cases also Smt.K.U.Nagarkatti was representing the applicants, though she was not present today, Shri Shetty indicated that in view of the settled position in law, the Bench may dispose of the application.

4. We have considered the matter and on perusal of the combined order dated 14/7/2000 passed by this Bench of the Tribunal in OA-168/96 and 175/96, in which one of us (Govindan.S.Tampi) was a party, we find that the matter before us is identical. Therefore the said decision would hold good in this matter also. We quote the entire order under reference:-

"The short question that calls for an answer in this application filed under Section 19 of the Administrative Tribunals Act 1985 is whether an employee rendered surplus in one department and re-deployed in another is entitled to count his seniority from the date of appointment in the department from which he was rendered surplus and redeployed. The applicants who were initially appointed as a Civilian School Masters in the scale of 130-330 in the Engineer Regiment Aundh, Pune on 21/5/73 were rendered surplus on 16/4/76 and was re-deployed in Ordnance Depot, Talegaon as Assistant Store Keepers in the scale of Rs.110-180. He was promoted as Senior Store Keeper/Upper Division Clerk on 7/4/86 in the scale of Rs. 130-300 which was revised to Rs.330-560. By a letter of Ministry of Defence dated 25/11/92, the sanction of the President for allowing the personnel declared surplus to hold the original pay scale of Civilian School Master (130-300) from the date of being absorbed in the alternative post of L.D.C/S.K. which carried a lower pay scale. Accordingly the applicants were placed in the higher scale and paid the arrears of pay and allowances. The grievance of the applicants is that they have not been given seniority from 21/5/1973 and therefore they pray for a direction to respondents to grant them seniority w.e.f. 21/5/1973 on the basis of the Ruling of Allahabad Bench of the Tribunal in OA-434/86, 919/91, 921/91 and 1232/91, where persons similarly circumstanced like the applicants have been given the seniority. The applicants made representations. In reply to the representations, the applicants were told by order dated 14/2/95, Annexure-1, that as the judgement of the Allahabad Bench cannot be extended and made universally applicable to all, the applicants who are not parties, would not be entitled to the benefit. Aggrieved by this

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order, the applicants have filed this application praying for a direction to respondents to refix the seniority of the applicants by granting seniority in the Grade of Upper Division Clerk/Assistant Store Keeper from the date of initial appointment in the post of Civilian School Master in the scale of Rs.130-300 with all consequential benefits, including seniority, subsequent promotion, arrears of pay, etc.

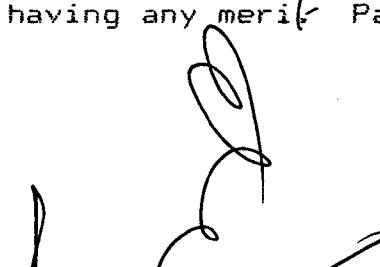
2. The respondents in their reply resist the claim of the Applicant. They contend that in a later ruling, the Calcutta Bench of the Tribunal in OA-1020/94, Prem Sagar V/s. Union of India and Ors decided on 17/7/1995 held that the view taken by the Allahabad Bench is no longer good in view of the decision of the Hon'ble Supreme Court in Balbir Sardana vs. Union of India and other (Civil Appeal No.628 of 1988) delivered on 29/1/1992 and in view of the Full Bench decision of R.D.Gupta v/s. Union of India reported at page 194 of Full Bench 1991-93.

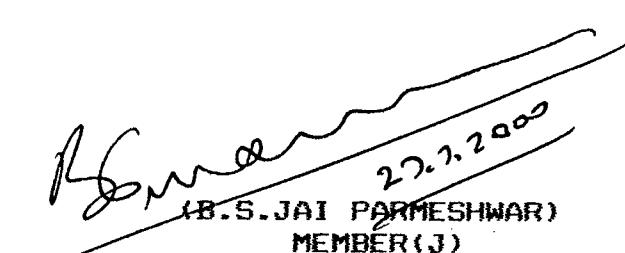
3. We have heard the Learned Counsel on either side. The Apex Court has in Union of India vs. K.Savitri and Ors. reported at 1998 SCC (L&S) 1134 held that an employee rendered surplus and re-deployed will count his seniority only from the date of joining the new department. The question having been settled by the ruling of Apex Court, we do not find any merit in the application.

4. In the result, the application which is devoid of any merit is dismissed. No orders as costs."

As the matter under examination is identical and the applicants are also identically placed, we accept the order for determining this application also.

4. In view of the above, this application is dismissed as having any merit. Parties to bear their own costs.


GOVINDAN S. TAMPI
MEMBER (A)


B.S.JAI PARMESHWAR
20.1.2000
MEMBER (J)