

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 231794

Date of Decision: 29-06-1999

R.N.Bangle

Applicant.

Shri B.Ranganathan

Advocate for
Applicant.

Versus

Union of India and Ors.

Respondent(s)

Shri R.K.Shetty.

Advocate for
Respondent(s)

CORAM:

Hon'ble Shfi. Justice K.M. Agarwal, Chairman,

Hon'ble Shri. R.K.Ahooja, Member(A)

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to other Benches of the Tribunal?

Sh
(R.K.AHOOJA)
MEMBER(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 231/94.

Tuesday, this the 29th day of June, 1999.

Coram: Hon'ble Shri Justice K.M. Agarwal, Chairman,
Hon'ble Shri R.K. Aahooja, Member(A).

R.N. Bangle,
C/o. Mrs. Rekha Kasare,
Advocate, 6586,
Laxmi Karanja,
Ahmednagar.
(By Advocate Shri B. Ranganathan)

...Applicant.

Vs.

1. The Union of India, through
The Secretary,
Ministry of Defence,
'South' Block,
New Delhi.
2. The Engineer-in-Chief,
Army Headquarters, D.H.Q.,
P.O. - New Delhi - 110 001.
3. The Chief Engineer,
Southern Command,
Pune.
4. The Commander Works Engineer,
In Side Fort, Ahmednagar.
5. The Garrison Engineer,
In Side Fort,
Ahmednagar - 414 001.

...Respondents.

(By Advocate Shri R.K. Shetty)

: O R D E R :

[Per Shri R.K. Aahooja, Member(A)]

The applicant who joined as a Superintendent Gr.II on 9.11.1963 under the Commander Works Engineer was promoted as Superintendent B/R Gr. I w.e.f. 14.9.1985. His grievance is that in the seniority list published by the respondents, he has been shown junior to a number of officers who were promoted as Superintendent Gr.I subsequent to the applicant. The applicant submits that aggrieved by the said seniority list he had preferred a representation on 24.8.1983 to the office of the Engineer-in-Chief, but by the impugned reply his representation has been rejected. Aggrieved by this

On

...2.

order he has now come before the Tribunal.

2. The respondents in their reply have submitted that till 1.3.1986 interse seniority between direct recruits and the promotees was determined on the basis of slot system under the general principles laid down in O.M. NO.9/11/55-RPS dt. 22.2.1959 (Annexure - R-1). Para 6 of that order reads as follows :

" The relative seniority of direct recruits and of promotees shall be determined according to the rotation of vacancies between direct recruits and promotees which shall be based on the quotas of vacancies reserved for direct recruitment and promotion respectively in the Recruitment Rules".

The respondents state that the interse seniority of the applicant vis-a-vis direct recruits who were appointed prior to 1.3.1986 was shown according to the slot against which they were appointed in the rota quota system. However, after 1.3.1986, following certain decisions of the Supreme Court the principles of determination of interse seniority between promotees and direct recruits were changed as per O.M. No. 55014/2/80-Estt. (dt.7.2.86) a copy of which has been annexed with the reply at Annexure - R-2. As per this O.M. which was made effective from 1.3.1986 the direct recruits/ promotees who came against vacancies of earlier year were placed en bloc below the appointees who came before them. The respondents say that the Hyderabad Bench of this Tribunal have decided a similar case in OA No.295/89 decided on 28.8.92 have upheld that the interse seniority of direct recruits and promotees prior to 1.3.1986 would be determined on the basis of the O.M. of 1959 (Annexure - R-1).

3. We have heard the counsel and have also gone through the two O.Ms., as well as, the copy of the order of the Tribunal in O.A. 295/89. The interse seniority which the applicant impugns was published in 1987. It has been argued before us that since by that time the OM of 1996 had come into force, the principle applied should have been as per that OM. We are unable to agree with this argument. The

appointments having ~~been made~~ before the ~~usual~~ date of 1.3.1986, seniority have to be determined in accordance with the rules in force prior to that date. We are also in respectful agreement ~~with~~ of the view adopted by our co-ordinate bench in OA 295/89.

4. Accordingly, we uphold the contention of the respondents that the applicant's interse seniority had to be determined as per the OM of 1959 and accordingly if those direct recruits who came to be appointed after the applicant were selected against vacancies of earlier years they were entitled to be shown as seniors to the applicant.

5. We also share the ^{view} ~~decision~~ expressed by the co-ordinate bench in OA 295/89 ^{regarding} ~~for~~ unsettling the seniority list of 1987.

6. Accordingly, the application is dismissed, with no order as to costs.

Hay
(M. A. HOOJA)
MEMBER (A)

KM
(K. M. AGARWAL)
CHAIRMAN

B.

Dated: 29.6.1999.

This Judgment is pronounced in the Open Court to day the 29th June, 1999 by the Bench comprising of Justice Shri R.G.Vaidyanatha, Vice-Chairman and Shri D.S.Baweja, Member (A) under Rule 106 of the CAT Rules of Practice at Mumbai.

D. S. Baweja
(D. S. BAWEJA)
MEMBER (A)

R. G. Vaidyanatha
(R. G. VAIKYANATHA)
VICE-CHAIRMAN
29.6.99