

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:701/95

DATE OF DECISION: 27.2.2001.

Shri Bhim Singh Rahi Applicant.

Shri P.A. Prabhakaran Advocate for  
Applicant.

Versus

Union of India and others. Respondents.

Shri R.R. Shetty for Shri R.K. Shetty Advocate for  
Respondents

CORAM

Hon'ble Shri Justice Ashok C.Agarwal, Chairman.

Hon'ble Ms. Shanta Shastry, 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.

*Shanta*  
(Ms. Shanta Shastry)  
Member(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 701/95

TUESDAY the 27th day of FEBRUARY 2001

CORAM: Hon'ble Shri Justice Ashok C. Agarwal, Chairman

Hon'ble Ms. Shanta Shastry, Member (A)

Bhim Singh Rahi  
Resident of  
Quarter No. F-28/3/2  
Pilot Bunder Road  
Colaba, Bombay.

...Applicant

By Advocate Shri P.A. Prabhakaran

V/s

1. Union of India through  
its Secretary,  
Ministry of Defence,  
South Block, New Delhi.
2. Engineer-in-Chief's  
Branch (EIC)  
Army Headquarters,  
DHQ PO, New Delhi.
3. Chief Engineer,  
Dakshin Kaman Mukhyalaya  
HQ Southern Comman  
Engineer Branch, Pune.
4. Garrison Engineer (Naval Works)  
Dr. Homi Bhabha Road,  
Navy Nagar, Colaba, Bombay.

...Respondents

By Advocate Shri R.R. Shetty for Shri R.K. Shetty.

ORDER (ORAL)

{Per Ms. Shanta Shastry, Member (A)}

The applicant in this case is agrieved as he has not been included in the seniority list of LDCs eligible for promotion to the cadre of UDC as per order dated 16.8.1994 issued by the CE SC Pune.

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2. The applicant sought compassionate transfer from the Western Command to the Southern Command while he was posted as LDC in the Western Command, Shimla. He was accordingly allowed transfer and he joined on 26.4.1979 in the Southern Command. It is the contention of the applicant that he did not expect to lose his seniority on joining Southern Command. The applicant has also made the ground that at least he should have been given in situ promotion as he has put in nearly 19 years of service.

3. The respondents submit that since the applicant was transferred at his own request on compassionate ground, he has to forego his seniority in his earlier organisation i.e. Western Command, his seniority will be counted only from the date he joined Southern Command. The respondents have also submitted that while seeking the compassionate transfer the application for posting on compassionate ground was approved by the appropriate authority based on personal undertaking given by the applicant to the effect of his willingness to forego the initial seniority for the purpose of promotion in the grade as envisaged in CPRO 73/74 and 11/75. The applicant cannot deny that he was not aware of the seniority position. The learned counsel for the respondents also submits that the applicant was granted promotion to the post of UDC in the year 1999, but he refused to accept the same on personal grounds. The learned counsel for the respondents also contended that the applicant has nowhere sought insitu promotion in his OA or in the prayer, therefore the application is not maintainable.

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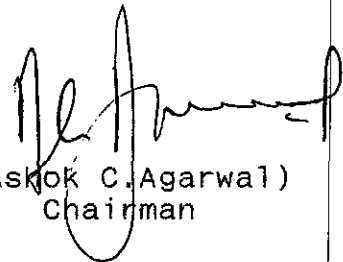
4. The learned counsel for the applicant has put forth the plea that the applicant has maintained his seniority and he was not aware of the seniority list, nor did he know that the service put in Western Command was not to be counted for seniority after he is transferred to Southern Command . He argued that at least the applicant should have been granted insitu promotion as was granted to 388 candidates on 31.3.1995. The applicant has been denied even this.

5. We have heard the counsel for both sides and we find that it is a clear case where the applicant has already given an undertaking to forego his seniority on his transfer to the Southern Command on his request, therefore he cannot now raise the issue of loss of his seniority. Besides the applicant has refused the promotion granted to him which came to him in its own turn. In the light of this we are unable to grant any relief to the applicant. The OA is dismissed. No costs.



(Ms. Shanta Shastri)  
Member(A)

NS



(Ashok C. Agarwal)  
Chairman