

(17)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.639/89

Dt. of order: 19.8.1994

L.N.Sen & Ors.

: Applicant

Vs.

Director General, Employees : Respondents
State Insurance Corporation,
New Delhi.

Mr. Rakesh Sharma, Brief-holder : Counsel for applicants
of Mr. Prahlad Singh

Mr. U.D. Sharma

: Counsel for respondents No.1 & 2.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice Chairman

Hon'ble Mr. O.P. Sharma, Member (Adm.)

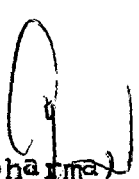
PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

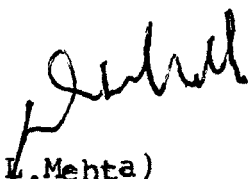
The Principal Bench in O.A.No.1147/88 R.D. Gupta & Ors. Vs. Union of India & Ors, has held that the observations made by the Hon'ble Supreme Court in its order dated 11.8.87 while dismissing of the SLP filed by the respondents against the judgment of the Chandigarh Bench of the Tribunal in Mohinder Kumar's case constitutes a binding precedent in the instant case. Thereafter the Principal Bench decided the O.A. as under:

- i) The inter se seniority of the promotees in the cadre of UDCs shall be determined on the basis of their total length of service which will be reckoned from the actual date of their promotion in accordance with Regulation 28(2) of the Employees State Insurance Corporation (Recruitment) Regulations, 1965, read with Principle No.5 of O.M. dated 22.12.1959 issued by the Ministry of Home Affairs. If an employee has been promoted after the DFC has found him fit for promotion, that period will also count for the purpose of reckoning seniority, irrespective of whether his promotion may be termed as ad hoc, or temporary or officiating. The period during which an employee had been promoted on an ad hoc basis by way of stop gap arrangement, is not to be counted for the purpose of seniority.
- ii) Where an employee promoted initially on a temporary basis is confirmed subsequently in an order different from the order of merit indicated at the time of his promotion, seniority shall follow the order of confirmation and not the original order of merit.

iii) The respondents are directed to revise the seniority list of UDCs on the basis of principles mentioned in (i) and (ii) above. Persons already promoted on the basis of the existing practice shall not be reverted and they shall be accommodated in the promotional post by creating supernumerary posts, if necessary. Further promotions should, however, be on the basis of the revised seniority list.

2. The directions given by the Principal Bench in O.A.No. 1147/88 decided on 21.12.1989 shall also apply in the instant case and the respondents shall comply with the above directions within a period of 3 months from the date of the receipt of this order. In view of the factual and legal position stated above the seniority list prepared earlier is quashed and the respondents shall recast the seniority list as directed by the Principal Bench as well as the Chandigarh Bench of the Tribunal in the cases referred above. The applicants shall also be entitled for the benefit on the basis of the revised seniority according to law. The O.A. is disposed of with no order as to costs.


(O.P. Sharma)
Member(A).


(D.L. Mehta)
Vice Chairman.