

(42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

DA 165/92.

Dt. of Order: 17-2-94.

K.Suri Babu

....Applicant

Vs.

1. The Chief Commissioner of Incometax,  
A.P., Ayakar Bhavan, Basheerbagh,  
Hyd.
2. The Govt., of India, rep. by its  
Secretary, Dept., of Personnel,  
Ministry of Home Affairs,  
South Block, New Delhi.
3. The Secretary,  
Central Board of Direct Taxes,  
North Block, New Delhi.

....Respondents

Counsel for the Applicant : Shri G.V.R.S.Varaprasad

Counsel for the Respondents : Shri N.V.Ramana, Addl.

CORAM:

THE HON'BLE JUSTICE SHRI V.NEELADRI RAO : VICE-CHAIRMAN

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

....2.

P. J.

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O.A.No.165/92

Dt. of decision:17-2-1994

Judgement

(As per the Hon'ble Sri V. Neeladri Rao, Vice Chairman)

This O.A. was filed on 25-2-92 praying for declaration that the general principles of seniority contained in OM No.9/11/55-RPS, dt.22-12-59 insofar as it relates to fixing of seniority basing on the date of confirmation in the cadre is illegal, arbitrary and to quash the same and for consequential direction to R-1 to refix the seniority of the applicant in the cadre of UDC without reference to the date of confirmation with all consequential benefits.

2. The applicant joined service in the Income Tax Department as UDC on 29-6-70 and he was confirmed in the said post w.e.f. 2-2-76. Ms. Prabhavathi, the junior of the applicant in the UDC cadre before confirmation, was promoted as Head Clerk on 16-3-92.

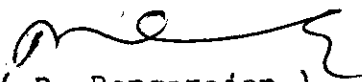
3. In the various departments of the Central Govt. the seniority list in each category <sup>to be initially</sup> was prepared on the basis of regular entry into cadre. The said seniority list was being revised every year basing on the date of confirmation, as envisaged in OM dt.22-12-59. The seniority list which is prepared on the basis of date of confirmation is being followed for promotion to the higher cadre.


4. The short point which arises for consideration is as to whether OM dt.22-12-59 to the extent it postulates linking of seniority with confirmation is violative of Art. 14 and 16 of the Constitution. This Bench held as per order dt.28-7-93 in O.A.380/92 that the said provision

He

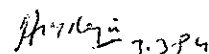
is violative of Art. 14 and 16 of the Constitution.

5. If seniority had to be delinked with confirmation, the applicant is admittedly senior to Ms. Prabhavathi as <sup>was promoted as</sup> Head Clerk after this O.A. was filed. <sup>So</sup> A direction has to be given to R-1 to consider the case of the applicant for promotion as Head Clerk as on 16-3-92, and <sup>is</sup> after he <sup>is</sup> so promoted, he has to be given the monetary benefit from 16-3-92. The O.A. is ordered accordingly. No costs.

  
( R. Rangarajan )  
Member (A)

  
( V. Neeladri Rao )  
Vice Chairman

Dt. 17-2-1994  
Open Court Dictation

 3.384  
Deputy Registrar(J)

kmv

To

1. The Chief Commissioner of Incometax, A.P.,  
Ayakar Bhavan, Basheerbagh, Hyderabad.
2. The Secretary, Govt. of India,  
Dept. of Personnel, Ministry of Home Affairs,  
South Block, New Delhi.
3. The Secretary, Central Board of Direct Taxes,  
North Block, New Delhi.
4. One copy to Mr. G. v. R. S. Varaprasad, Advocate, CAT. Hyd.
5. One copy to Mr. N. v. Ramana, Addl. CGSC. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

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