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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.337/92.

Date of Judgement 31-3-1993

B.S.Bhatia

.. Applicant

Vs.

1. Secretary,
Min. of Defence,
Dept. of Defence Production,
New Delhi.

2. Chairman & DGOF,
Ordnance Factory Board,
10A, Auckland Road,
Calcutta.

3. Shri A.K.Das,
Addl. G.M.,
Vehicle Factory,
Jabalpur.

.. Respondents

Counsel for the Applicant :: Shri B.S.Bhatia, Party-in-person.

Counsel for the Respondents:: Shri M.Jagan Mohan Reddy &
Shri G.Parameswara Rao (for R3).

CORAM:

Hon'ble Shri Justice V.Neeladri Rao : Vice-Chairman.

Hon'ble Shri R.Balasubramanian : Member(A).

X Judgement as per Hon'ble Shri R.Balasubramanian, Member(A) X

This application has been filed by Shri B.S.Bhatia against the Secretary, Min. of Defence, Dept. of Defence Production, New Delhi & 2 others. Respondent No.3 is a private respondent. The ^{applicant} ~~prayer~~ seeks a direction to the respondents that he should be placed above Respondent No.3 in the combined gradation list of officers of the Junior Administrative Grade (J.A.G. for short).

2. The applicant joined the service as Asst. Manager in the Junior Time Scale (J.T.S. for short) of Group-A on 1.12.72 whereas Respondent No.3 joined the same grade on 1.11.71. The applicant belongs to the Engineers Group while Respondent No.3 belongs to the Metallurgists Group. The next promotion to the grade of Dy. Manager in the Senior Time Scale (S.T.S. for short)

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was also with effect from the same date i.e., 19.3.77 for both the applicant and Respondent No.3. The still later promotion as Dy. Manager in the J.A.G. was also with effect from the same date i.e., 25.2.84 for both the applicant and Respondent No.3. It is the case of the applicant that the promotion to the J.A.G. being with effect from the same date and on account of the same grading the relative seniority in J.A.G. should be determined by the seniority in the grade below i.e., S.T.S. It is his case that since the date of promotion to this grade also was the same for both of them and since Respondent No.3 was superseded by someone in his group while the applicant was not superseded, the applicant should be deemed to have a higher grading at the time of promotion from J.T.S. to S.T.S. and this relative seniority should be reflected in the combined seniority list of J.A.G. He is aggrieved that instead of his being shown senior to Respondent No.3 in the gradation list for J.A.G. it is the other way about. He filed O.A.No.625/91 which was disposed of on 25.2.92 with the direction to the respondents to reply his representation on the subject. Liberty had, however, been given to the applicant to approach the Tribunal if he was aggrieved. Pursuant to the directions given by the Tribunal the respondents no doubt had made a change in the gradation list of I.O.F.S. officers as on 1.7.90 but the change does not affect the applicant. In other words, his request has not been met and hence he has approached this Tribunal with this O.A.

3. The official respondents have filed a counter affidavit. It is admitted that prior to September, 1989 there was no common seniority list among the various trades such as Engineer, Metallurgists etc. Upto September, 1989 they were maintaining separate seniority lists for various trades like Engineers, Metallurgists, Chemists, Clothing Technologists etc., in the various grades like J.T.S., S.T.S., etc. Thereafter,

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Thereafter, the recruitment rules were amended to have a common seniority list of officers belonging to all trades. A combined seniority list was drawn up as on 1.7.90. A number of representations were received against the seniority list including the one from the applicant. The matter was taken up with the Dept. of Personnel for seeking clarification/advice. On receipt of advice from the Dept. of Personnel the seniority list was recast and the representation of the applicant was disposed of. The Dept. of Personnel had advised that if officers of different trades were appointed to the J.A.G. on the same date then the relative seniority is to be based on the relative seniority in the lower grade of S.T.S. In the instant case, the date^{of} of promotion to S.T.S. ~~between~~ the applicant and Respondent No.3 is also the same and, therefore, the respondents decided to settle their relative seniority going further below to the grade of J.T.S. It is undisputed ~~that~~ that in the J.T.S., Respondent No.3 was appointed earlier than the applicant and in the light of this they placed Respondent No.3 above the applicant in the gradation list of the J.A.G.

4. Respondent No.3 has also filed a counter opposing the O.A. It is contended that he was confirmed in the S.T.S. on 1.8.80 itself whereas the applicant was not yet confirmed at that stage. He claims seniority over the applicant on this score that confirmed employees take precedence over ^{unconfirmed} ~~unfirmed~~ employees in the cadre.

5. The applicant has filed an additional affidavit also. In this he relies on para 6(3) of the Manual on Establishment & Administration for Central Government Offices and also the general principles laid down for determining seniority in Swamy's Compilation on Seniority on Promotion in Central Government Offices.

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6. We have examined the case and heard the applicant in person and S/Shri M.Jagan Mohan Reddy and G.Parameswara Rao, learned counsels for the official respondents and Respondent No.3 respectively. The thrust of the contention of the applicant was that he was senior to Respondent No.3 in the S.T.S. and hence though both were promoted to J.A.G. with effect from the same date, he should be regarded senior to Respondent No.3 in J.A.G. In the additional affidavit he had cited some rules. We have seen these and find that these do not ^{support} ~~help~~ the contention of the applicant. It is seen that till 1989, there was no integrated seniority list in J.A.G. covering different trades like Engineers, Metallurgists, Chemists, Clothing Technologists etc. Hence the question of relative seniority of the applicant and Respondent No.3 in S.T.S. prior to 1989 does not arise. This finding is further strengthened by the fact that while Respondent No.3 had been confirmed in S.T.S. on 1.8.80, in his trade (Metallurgists) the applicant could not be confirmed even today in S.T.S. in his trade (Engineers). Hence, the main plank of the applicant's argument collapses. From the table of career advancements of the applicant and Respondent No.3 given below it is seen that both were promoted to S.T.S. on the same day.

	<u>Shr A.K.Das.</u> <u>Respd.No.3</u>	<u>Shri B.S.Bhatia.</u> <u>Applicant.</u>
Date of appointment to J.A.G.	25.2.1984	25.2.1984
-do- to S.T.S.	19.3.1977	19.3.1977
-do- to J.T.S.	1.11.1971	1.12.1972

One has, therefore, to go further down to J.T.S. to see as to who, between the two, is senior. Since they belong to different trades, here again there is no relative seniority. But then, Respondent No.3 had joined the service (I.O.F.S.) earlier than the applicant. It is not the case of the applicant that he got better rating than Respondent No.3 in the selection of S.T.S. officers of different trades ^{to} (J.A.G.). In a situation like this

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the person who joined the service (in this case I.O.F.S.) earlier is to be treated as senior and this is what has been done. We see no reason to interfere in this case and dismiss the O.A. with no order as to costs.

V.N.
(V.Neeladri Rao)
Vice-Chairman.

R.B.
(R.Balasubramanian)
Member(A).

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Dated: March, 1993.

[Signature]
Deputy Registrar(J)

To

1. The Secretary, Min.of Defence,
Dept.of Defence Production, New Delhi.
2. The Chairman & DGOF, Ordnance Factory Board,
10A, Auckland Road, Calcutta.
3. One copy to Mr.B.S.Bhatia, Party-in-person
5017, Ordnance Factory ~~xxxxx~~ Estate, Yeddumailaram, Medak Dist.
4. One copy to Mr.M.Jaganmohan Reddy, Addl.CGSC CAT.Hyd.
5. One copy to Mr.G.Parameswar Rao, Advocate for R.3, CAT.Hyd.
6. One copy to Deputy Registrar(J)CAT.Hyd.
7. Copy to All Reporters as per standard list of CAT.Hyd.
8. One spare copy.
9. one copy to Librarian, CAT.Hyd.

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HYDERABAD BENCH
HYDERABAD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD

THE HON'BLE MR. V. Neelakshi Rao V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY: M(J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 31-3-1992

~~ORDER~~/JUDGMENT:

R.A./ C.A./M.A.No.

in

O.A.No.

337/92

T.A.No.

(W.P.No.)

Admitted and Interim directions issued

Allowed

Disposed of with directions

Dismissed

Dismissed as with drawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs.

pvm.

