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CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :  
AT HYDERABAD.

O.A.No.535 of 1996

Date of Order- 18-9-1997.

Between:

M. Bharadwaja  
M.V.K. Rao  
S.A.Saleem  
B. Shanthi Kumar

... Applicants

And

1. Government of India represented  
by its Secretary, Deptt. of Revenue,  
Ministry of Finance, North Block,  
Central Secretariat, New Delhi.

2. Central Board of Direct Taxes,  
Department of Revenue,  
Government of India,  
North Block, New Delhi.

3. The Chief Commissioner of Income Tax,  
Andhra Pradesh, Govt. of India,  
8th Floor, Ayakar Bhavan,  
Basheerbagh, Hyderabad. ...

Respondents

Counsel for the Applicant - Mr. Phaniraj for  
Mr. Naveen Rao.

Counsel for the Respondents- Mr. V.Rajeswar Rao, Addl.CGSC

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Coram :

The Hon'ble Mr. R.Rangarajan, Member(Admn.)

The Hon'ble Mr.B.S.Jai Parameshwar, Member(Judl.)

ORDER (ORAL)

(As per Hon. Mr. R.Rangarajan, Member (Administrative)).

1. Heard Mr. Phaniraj for Mr. Naveen Rao for the  
Applicants and Mr. V. Rajeswar Rao for the respondents.

2. There are four applicants in this O.A. They  
are directly recruited Income Tax Inspectors. The  
first applicant joined at Madras charge on 14.12.92;  
second applicant at Gujarat Charge on 6.9.89; third  
applicant at Pune Charge on 15.2.93 and the fourth  
applicant joined at Gujarat Charge on 26.12.90. Thus

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all of them have joined in different Charges other than Hyderabad Charge. The applicants on request came to Hyderabad Charge. The first applicant joined at Hyderabad Charge on 12.8.93, second applicant on 20.9.93, third applicant on 6.12.93 and the fourth applicant joined at Hyderabad on 30.12.93. All of them were shown in the seniority list below the direct recruits in the Hyderabad Charge according to their dates of joining. The promotee Income Tax Inspectors represented their case for showing them senior above the applicants in the Hyderabad Charge. That representation was considered and the applicants herein were shown below the promotees in the seniority list<sup>2(w)</sup> dated 26.2.96 (Annexure-5). This O.A. is filed to set aside the impugned seniority list dated 26.2.96 with all consequential benefits.

3. The four applicants in this O.A. request for placing them in the seniority list below the direct recruits according to their dates of joining the Hyderabad Charge. In other words, they protest against their placement below the promotees by the impugned seniority list vide Memorandum Cr.No.351/Estt./1996 dt.26.2.1996.

4. The learned counsel for the respondents submits that O.A.No.262/96 filed before this Bench was disposed of by order dated 19.3.96. In that case, they produced the letter dated 26.2.96 i.e. the present letter which is impugned herein wherein the promotees were shown senior to the applicants in that O.A. As the promotees were satisfied, the O.A. was dismissed as infructuous at the admission stage itself. The applicants herein were also the parties as respondents in that O.A. Hence they cannot question that seniority list which has also been approved by this Tribunal. Similarly O.A.No.102/96 was dismissed as infructuous on 10.3.96

following the earlier judgment in O.A.No.262/96:

5. We have gone through both the earlier judgments. Those O.As. were dismissed as infructuous at the admission stage itself noting the Memorandum dated 26.2.96. If the respondents have stated that the said Memorandum was <sup>not</sup> also given to the private respondents in that O.As. those O.As could not have been dismissed as infructuous. By dismissing the previous O.As as infructuous, it cannot be taken as a final direction of this Tribunal in view of the fact that the respondents in those O.As were not given proper opportunity to explain their case. In that view of the matter, this O.A. has to be considered on merits and disposed of.

6. When the seniority of the applicants in this O.A. was initially shown below the direct recruits on their joining in the Hyderabad Charge and above the promotees and when that position was changed by placing the applicants below the promotees by the impugned Memorandum dated 26.2.96, no opportunity was given to the applicants herein before revising the seniority list. Hence we feel that justice will be done if we set aside the impugned Memorandum dated 26.2.96 and treat that Memorandum as provisional thereby asking for the representations, if any, from the affected parties and finalise the same on the basis of the representations received in accordance with law.

7. In view of what is stated above, the following direction is given :-

The impugned Memorandum Cr.No.351/Estt./1996 dated 26.2.1996 <sup>hereby</sup> is set aside. The said Memorandum should be treated as a provisional one. The respondents shall now call for the objections from the Income Tax Inspectors in the Hyderabad Charge. If any representation is received within the stipulated period, the same should be considered in

*Which is treated as final seniority list*

*Which is treated as final seniority list*

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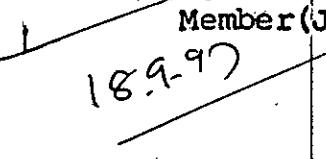
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accordance with law and thereafter the impugned Memorandum should be made final on the basis of the disposal & representations.

Needless to say that if the applicants are going to be aggrieved by the final Memorandum to be issued by the respondents, they are at liberty to take such remedies as are available to them under law.

The O.A. is ordered accordingly. No costs.

  
(B.S. Jai Parameshwar)  
Member (Judl.)

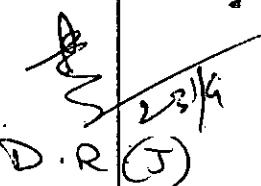
  
18.9.97

  
( R. Rangarajan )  
Member ( Admn. )

Dated the 18th September, 1997.

Dictated in open Court.

Dj/.

  
S.23/4  
D.R. (J)

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1. The Secretary, Dept. of Revenue, Min. of Finance, North Block, Central Secretariat, New Delhi.
2. Central Board of Direct Taxes, Dept. of Revenue, Govt. of India, North Block, New Delhi.
3. The Commissioner of Income Tax, Andhra Pradesh, Govt. of India, 8th Floor, Ayakar Bhavan, Basheerbagh, Hyderabad.
4. One copy to Mr.P.Naneen Rap, Advocate, CAT, Hyderabad.
5. One copy to Mr.V.Rajeswara Rao, Addl.CGSC, CAT, Hyderabad.
6. One copy to D.R(A), CAT, Hyderabad.
7. One duplicate copy.

YLKR

off  
6/10/97

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD

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

AND

THE HON'BLE SHRI B.S.JAI PARAMESHWAR :  
M (J)

Dated: 18/8/87

ORDER/JUDGMENT

M.A/R.A/C.A.NO.

in

O.A.NO. 535/86

Admitted and Interim Directions  
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

YUKR

II Court

केन्द्रीय प्रशासनिक विधिकरण  
Central Administrative Tribunal  
प्रेषण/DESPATCH

21 OCT 1997

हैदराबाद धायरीठ  
HYDERABAD BENCH