

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA No. 147/94 : Date of order 26.4.94

V.N. Chung : Applicant

V/s

Union of India and Others : Respondents

Mr. Mahendra Shah : Counsel for the applicant

Mr. N.K. Jain : Counsel for the respondents

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Hon'ble Mr. Gopal Krishna, Member (J)

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

PER HON'BLE MR. O.P. SHARMA, MEMBER (A)

On 30.3.94, the OA was admitted and an interim order was issued that if the applicant is eligible for consideration for promotion to the post of Assistant Commissioner as per the original seniority claimed by him, his name shall be considered by the ensuing DPC but the result of the deliberations of the DPC in so far as the applicant is concerned shall not be declared till the next date.

2. The relief ~~sought~~ by the applicant by this application is that the order dated 16.3.94 at Annexure A-1 effecting a change in seniority of the applicant in the post of ITO may be quashed and that the action of the respondents in changing the date of promotion of the applicant to the post of ITO, ultimately resulting in change in his seniority position from serial no. 294 to serial no. 495 may be declared illegal, being contrary to the principle of natural justice.

3. We have heard the learned counsel for the parties and have gone through the records.

4. Both the counsel agree that the application be disposed of at the stage of direction.

5. The applicant's grievance is that no opportunity of being heard to him was granted before effecting change in his seniority as per the seniority list of ITOs, as a consequence of changing the date of his promotion to the post of ITO. We find that this contention of the applicant has substance.

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Seniority of a Government Servant cannot be changed by the Department unilaterally without affording an opportunity of hearing to the applicant. In the circumstances of the present case, after hearing both the counsel, we direct that the applicant shall make a representation to the Department within 15 days from today, setting out his reasons why the date of his promotion as ITO and consequently his seniority should not be changed. If such a representation is made by the applicant within the stipulated time, it shall be disposed of by the respondents within a period of one month thereafter.

6. The learned counsel for the respondents states, on instructions from the Departmental representative, that the applicant's name has already been considered by the DPC in view of the interim direction issued on 30.3.94. Till the disposal of the representation as referred to in para 5 above, and communication of the result thereof to the applicant, his original seniority position at serial no. 294 shall not be disturbed.

7. The OA is disposed of accordingly with no order as to costs. If the applicant is aggrieved by any decision taken by the respondents on his proposed representation, he shall be at liberty to file a fresh application.

(O.P. Sharma)
Member (A)

G.Krishna
(Gopal Krishna)
Member (J)