

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 10.6.2003

OA 266/2003 with MA 269/2003

Anupam Malhotra, Radheyshyam Verma, H.E.Vijay, Naresh Kumar Sharma, Bijesh Kumar Sharma, Rajendra Mohan Meena (all at present working as T.A. in the Income Tax Office, Jaipur) and Mahesh Kumar Malani, at present working as T.A. in the Income Tax Office, Rajasmand (Rajasthan).

... Applicants

Versus

1. Union of India through Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi.
2. Chief Commissioner of Income Tax, HCES, Statue Circle, C-Scheme, Jaipur.

... Respondents

CORAM:

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER

For the Applicants

... Mr.P.K.Sharma

For the Respondents

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O R D E R (ORAL)


Applicants, named above, have filed the present OA praying for the following relief :

- "8.1 That the applicants may be granted seniority position in the combined seniority list on the basis of date/year of the vacancy against which they were selected i.e. either year 1990 or earlier. Or in the alternative -
- 8.2 That the impugned seniority list of 1998 as revised on 22 January 2002 may be amended so far the position of the applicants is concerned, taking into consideration as financial year of 1991-92 as their year of selection deeming them available as direct recruits in the financial year 1991-92 and they may be granted seniority position as mentioned in sub para 6 of para No.4 of the OA."

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2. Heard the learned counsel for the applicants. The grievance of the applicants is that vide order dated 22.1.2002 (Ann.A/1) the representationists mentioned therein were granted seniority on the slot meant for direct recruits of immediate preceeding batch i.e. below the promotees of 1979 batch though they joined the department in the year 1986-87. whereas the applicants who were also similarly situated and were selected as UDC in the year 1992 against the vacancies available in the year 1990 have been denied the same benefit of seniority. The applicants have further submitted that they have also made representations (Ann.A/10 to Ann.A/16) separately to the Chief Commissioner of Income Tax, Jaipur (Respondent No.2), which are still pending consideration and have not been decided so far.

3. The learned counsel for the applicants could not satisfy this Tribunal as to how the case of the applicants is similar to that of the persons who were granted seniority from earlier date vide order dated 22.1.2002 (Ann.A/1). Admittedly, four persons who have been assigned seniority on the vacant slot meant for direct recruits and were placed below the promotees of 1979 batch though they were selected subsequently in the year 1986-87 were assigned seniority pursuant to OM dated 22.12.59 (Ann.A/17), which OM stipulates that the seniority has to be assigned according to the slot available for respective quota. These instructions mentioning the general principles of seniority issued on 22.12.59 were subsequently modified vide another OM dated 7.2.86 (Ann.A/18) and the practice of keeping vacant slots for being filled up by direct recruits of later year was dispensed with. The applicants were admittedly appointed after issuance of the said OM dated 7.2.86 which OM stipulates the



modified general principles for determining the seniority of various categories of persons employed in Central Services after 1.3.1986, from which date the said OM was made applicable. As such, the applicants cannot claim parity with the persons who were appointed earlier to 1986 and in whose case the seniority has to be determined according to OM dated 22.12.59 by giving the unintended seniority over the promotees who were already in position; which practice was dispensed with vide OM dated 7.2.86. That apart, as can be seen from the order dated 22.1.2002, the representationists mentioned therein, who have been granted the benefit of seniority from earlier date, have filed representation at the earliest and the matter remained pending for want of CBDD's instructions and thereafter they filed OA before this Tribunal and this Tribunal vide order dated 30.7.2001 directed that their representation be decided within the stipulated time. Thus, in their case, according to the respondents, there was no delay on their part and they were given benefit of seniority from back date according to the principle as envisaged in the OM dated 22.12.59. In the present case, the applicants have not placed any material on record to show that they have filed any earlier representation ventilating their grievance regarding seniority except the representations filed in the year 2002-03 (Ann.A/10 to Ann.A/16). Be that as it may, the learned counsel for the applicants submits that their clients will be satisfied if a direction is given to the respondents to consider their representation(s) at this stage.

4. In view of the submission made by the learned counsel for the applicants, without expressing any opinion about the merit of this case, it will be appropriate if a direction is given to the respondents to decide the representation made by the applicants. Accordingly, the applicants are directed to make fresh

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representation to respondent No.2 within 15 days from today alongwith copy of this order and by Speed Post in order to avoid delay. In that eventuality, respondent No.2 is directed to dispose of the said representation within six weeks from the date of receipt of such representation by a speaking order. With these directions the present OA stands disposed of. MA 269/2003, for condonation of delay, shall also stand disposed of accordingly.



(M.L. CHAUHAN)

MEMBER (J)