

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT BILASPUR

Original Application No. 510 of 2004

Bilaspur, this the 19th day of September, 2005

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mehan, Judicial Member

Ku. Jyoti Lakra, UDC
Office of the Regional Provident
Fund Commissioner-I
Nav Bharat Complex,
GE Road, Raipur and 4 others.

APPLICANTS

(By Advocate - Shri S.Paul)

VERSUS

Union of India through
Central Provident Fund Commissioner-I,
14, Bikhaji Cama Place,
New Delhi-110 066.
and 16 others

RESPONDENTS

(By Advocate - Shri Pradeep Saxena for official respondents
Shri S.K. Nagpal for private respondents)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

By filing this Original Application, the applicants
have sought the following main reliefs :-

- "(i) to quash the impugned seniority list Annexure-A-1.
- (ii) to restore the seniority list dated 7.5.2003.
- (iii) to declare that after bifurcation the respondent No.3 has no jurisdiction to decide the seniority list in respect of the employees of Chhattisgarh region.
- §(ii) Set aside the seniority list dated 12.7.2004 Annexure A-13 and provide all consequential benefits to the applicants as if the impugned order are never issued."

2. M.A.No.807/2004 filed by the applicants under Rule 4(5)(a) of the Central Administrative Tribunal(Procedure) Rules,1987, for permitting the applicants to file joint application, is considered and allowed.

3. The brief facts of the case are that the applicants were initially appointed as Lower Division Clerks. Thereafter they were promoted as Upper Division Clerk (for short 'UDC') on adhoc basis during the period between 10.2.1995 and 22.8.1997. Subsequently they have been appointed on regular basis as UDC. All the private-respondents nos.4 to 17 i.e.

14 in number, have been appointed through departmental examination. As per rules, the post of UDC is required to be filled up by way of promotions as well as by departmental examination. Before bifurcation of the State of Madhya Pradesh into two States of ⁽ⁱ⁾ Madhya Pradesh and ⁽ⁱⁱ⁾ Chhattisgarh, the Regional Provident Fund Commissioner Office was located at Indore. After bifurcation of the State of Madhya Pradesh, the Regional Provident Fund Commissioner's Office ^{for the State of Chhattisgarh} was established at Raipur sometime in 2001. A seniority list of 14 persons which includes the name of 14 private respondents was prepared and circulated vide circular dated 25.6.2004 issued by the Office of the Regional Provident Fund Commissioner, Chhattisgarh, and objections were invited from the persons concerned. The applicants instead of ^{submitting} giving their objections to the respondents have approached this Tribunal and have filed this Original Application. They have stated in Para 1 of this OA that this OA is made against the aforesaid seniority list dated 25.6.2004. The respondents have finalised the said seniority list during the pendency of this OA. In the circular dated 25.6.2004 (Annexure-A-1) it is stated that "as regards further seniority list of UDC's is concerned, same will follow after completion of formalities/DFC etc. by Regional Office, Raipur". Since the applicants are aggrieved by the draft seniority list, which has subsequently been finalized of ~~14~~ ^{and 2} persons, which includes the name of all the private respondents, they have filed the present Original Application.

4. Heard the learned counsel for the parties.

5. During the course of arguments, the learned counsel for the applicants has submitted that the applicants have been appointed initially on adhoc basis by a duly constituted selection committee and by the competent authority. They have continued in adhoc appointment without any interruption and subsequently they have been regularized. According to him, the private-respondents have been appointed on the basis of the departmental examination conducted by the respondents and have been appointed later than the date of adhoc appointment

of the applicants. He has submitted that since the applicants have been appointed against the regular vacancies by a competent authority and after following the due procedure, they are entitled to count seniority from the date of their initial appointment. To support his claim, he has relied upon the judgment of the Hon'ble Supreme Court in the case of Direct Recruit Class II Engineering Officers Association Vs. State of Maharashtra, (1990)2 SCC 715 = 1990 SCC (L&S)339.

6. On the other hand, the learned counsel for the official respondents has submitted that these applicants were initially appointed as a stop gap arrangement against the vacancies earmarked for departmental quota. Some of the applicants have qualified in the departmental examination and later on the applicants have been appointed against the departmental quota and not ^{against} seniority quota and, therefore, they are clearly junior to the private-respondents in terms of the seniority rules issued by the Department or Personnel and Training. He has also drawn our attention to one of the appointment orders of applicant no.1 dated 6.10.1998 (Annexure-NA-2) which clearly shows that the applicant no.1 has been appointed on adhoc basis as a stop gap arrangement and her appointment on adhoc basis has been extended from time to time. Had this adhoc appointment been made against the regular vacancy, there was no question of extending the adhoc appointment from time to time. He has also submitted that there are certain other conditions which have been laid down in the adhoc appointment order of the applicant no.1. He has further submitted that similarly other four applicants have also been appointed on adhoc basis as a stop gap arrangement. However, the learned counsel has not been able to show us the copies of the adhoc appointment orders of other applicants.

7. The learned counsel for the private-respondents has submitted that the seniority list which has been published on 25.6.2004 was in regard to all the private-respondents and

this seniority list has been prepared on the basis of the seniority list published by the Indore Office of the Regional Provident Fund Commissioner of erstwhile State of Madhya Pradesh. He has also submitted that these applicants have been appointed on adhoc basis not against clear vacancies but as a stop gap arrangement. He has further submitted that the seniority of the applicants will be decided by the respondents, as has been mentioned by them in letter dated 25.6.2004. In the letter dated 25.6.2004 it has been clearly stated that "as regards further seniority list of UDCs is concerned, same will follow after completion of formalities/ DPC etc. by Regional Office Raipur". But, the applicants instead of waiting or ^{submitting 2} giving their objections to the respondents on publication of this draft seniority list dated 25.6.2004, have rushed to the Tribunal.

8. We have given careful consideration to the rival contentions. Keeping in view the facts and circumstances of the case, we are of the considered view that the ends of justice will be met if we direct the applicants to file a detailed representation to the respondents with regard to fixation of their seniority in the grade of UDC, within four weeks from the date of receipt of a copy of this order. We do so accordingly. If the applicants comply with this direction, the respondents are directed to take a decision on the representation of the applicants within four months from the date of receipt of ~~acceptance~~ of such representation and pass a detailed, speaking and reasoned order, and communicate the same to the applicants promptly.

9. In the result, the OA is disposed of with the directions as contained in the preceding paragraph. No costs.

10. The Registry is directed to enclose a copy of the memo of parties along with this order, and supply the same to the concerned parties while issuing certified copy of this order.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman