

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 15th day of March, 2010

ORIGINAL APPLICATION NO. 182/2006

With

MISC. APPLICATION NO. 65/2010

CORAM:

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

HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Om Prakash Bairwa son of Late Shri Ram Narain Bairwa, aged about 48 years, at present working as Assistant Accounts Officer, Employees Provident Fund Organisation, Jodhpur, resident of Ankaliya Chouraha, Baldev Nagar, Jodhpur.

.....APPLICANT

(By Advocate: Mr. P.V. Calla)

VERSUS

1. Union of India through Central Provident Fund Commissioner, Bhavishya Nidhi Bhawan, 14, Bhikaji Kama Palace, New Delhi.
2. The Regional Provident Fund Commissioner, Regional Office, Nidhi Bhawan, Jyoti Nagar, Jaipur.

.....RESPONDENTS

(By Advocate: Mr. Amit Mathur to Mr. R.B. Mathur)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

"It is, therefore, prayed that the Hon'ble Tribunal may kindly call for and examine the entire record relating to this case and by an appropriate writ, order or direction:-

- (i) the impugned letter dated 2.5.2006 Ann. A/1 in respect of the applicant may kindly be declared illegal and the respondents may be directed to treat the applicant as Head Clerk/ Section Supervisor w.e.f. 25.11.1991.
- (ii) the Original Application may kindly be allowed with costs.
- (iii) Any other relief to which the applicant is found entitled in the facts and circumstances of the present case, may also be granted in favour of the applicant."

2. When the matter was listed on 19.05.2006, this Tribunal has passed the following order:-

"....."

Heard the learned counsel for the applicant. The dispute is regarding tentative seniority list of Head Clerk subsequently designated as Section Supervisor as on 31.12.2005 as circulated vide order dated 2.5.2006 (Annexure A/1). In the said seniority list the name of applicant has been shown at Sl. No. 112 whereas the name of one Shri Gulab Chand and Prakash Samatani has been shown at Sl. No. 102 & 104. Further the date of appointment of the applicant as Head Clerk/ Section Supervisor has been shown as 5.10.1994 whereas that of Gulab Chand and Prakash Sumatani has been shown as 12.05.1993 respectively. Learned counsel for the applicant submits that the applicant has filed OA No. 140/94 in this Tribunal whereby promotion of Shri Gulab Chand and Prakash Sumatani was challenged and the said OA was decided on 12.11.99. In that judgment, this Tribunal categorically held that S/s Gulab Chand and Prakash Sumtani who were promoted vide impugned order dated 12.5.1993 has qualified the examination after the applicant. As such, they could not have been placed senior to those persons who have qualified the examination earlier. Accordingly, direction was given to the respondents to reconsider the issue of date from which the applicants should be given promotion to the post of Head Clerk. In compliance of the order passed by this Tribunal in earlier OA, the respondents granted promotion to the applicant w.e.f. 25.11.1991 and the pay was also fixed. The applicant has also placed on record a copy of pay fixation of the applicant as made vide order dated 14.6.2000 on record as Annexure A/3. Thus according to the learned counsel for the applicant, once the applicant has been granted promotion as Head Clerk/ Section Supervisor w.e.f. 25.11.1991, it is not open for the respondents now to show the date of appointment of the applicant as 5.10.1994 as was done by them in the seniority list Annexure A/1, whereas the date of appointment of S/s Gulab Chand and Prakash Sumatani has been shown as 12.9.1993 and they have been placed above the applicant. Learned counsel for the applicant further argued that on the basis of granting promotion on the post of Head Clerk/ Section Supervisor w.e.f. 25.11.1991, he was further promoted as Assistant Accounts Officer vide order dated 23.12.2005 (Annexure A/4). Thus according to learned counsel for the applicant, the tentative seniority list has not been correctly prepared.

From the material placed on record, it is clear that the respondents have called objection from the affected parties

regarding draft seniority list. Admittedly, the applicant has not made any representation. Learned counsel for the applicant submits that he could not make representation as he has apprehension that in the meanwhile, the applicant may be reverted from the post of Assistant Accounts Officer to the post of Head Clerk/ Section Supervisor based on revised tentative seniority list. Accordingly, I am of the view that the applicant may make representation to the concerned authority within a period of seven days along with a copy of this order. The respondents are directed to consider the representation of the applicant in accordance with law and pass appropriate order. In the meanwhile, the respondents are restrained to revert the applicant from the post of Assistant Accounts Officer till the next date.

3. In view of the order passed by this Tribunal, the applicant has made a representation to the respondents. The respondents have filed MA No. 65/2010 thereby annexing certain documents. As can be seen from the seniority list dated 25.06.1999 annexed with this MA, the applicant has been assigned seniority over & above S/S Gulab Chand and Prakash Sumatani. As such, according to us, the present OA does not survive. In case the applicant has any grievance regarding final seniority list dated 25.06.1999 & for other consequential benefits, it will be open for him to challenge the same by filing substantive OA.

4. With these observations, the OA is disposed of with no order as to costs.

5. In view of the order passed in the OA, no order is required to be passed in MA No. 65/2010, which is disposed of accordingly.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ