

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH**

Jaipur, this the 03rd day of May, 2011

ORIGINAL APPLICATION NO. 270/2008

CORAM

HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Anil Kumar sagar son of Shri Gangaram, resident of 72, Chandranagar-B, Opposite Kardhani, Kalwar Road, Jhotwara. Presently posted as Upper Division Clerk in the Office of Headquarters, Chief Engineer, Jaipur Zone, Jaipur.

.....Applicant

(By Advocate: Mr. P.P. Mathur)

VERSUS

1. Union of India through the Secretary, Ministry of Defense, Government of India.
2. The Chief Engineer, Southern Command, Military Engineering Services, Pune.
3. Chief Engineer, Jaipur Zone MES, Power House Road, Bani Park, Jaipur.

.....Respondents

(By Advocate: Mr. Mukesh Agarwal)

ORDER (ORAL)

By way of this OA, the applicant has prayed that the respondents be directed to give him the benefit of seniority from the date he was empanelled for appointment on the post of LDC and they be further directed to grant him consequential benefits including revision of date of promotion and consequential seniority and fixations and arrears alongwith interest @ 18% per annum.

2. Brief facts of the case are that the applicant belongs to SC community. He was initially appointed on the post of LDC on



06.04.1985. The applicant applied for appointment as LDC as sponsored candidate through Employment Exchange. The panel in pursuance to the selection proceedings was finalized on 27.09.1983. The name of the applicant appeared in the panel at sr. no. 13. Thereafter he was promoted on the post of UDC vide order dated 19.08.2002. The applicant came to know that on the basis of certain judgments and the DOPT letters, seniority lists were revised in many cadres including that of LDCs. The seniority position was revised vide order dated 18.04.2002 for the post of LDC after a judgment was passed by the Jodhpur Bench of the Tribunal in OA No. 126/1998 [**Prem Kumar & Others vs. Union of India & Others**]. After this judgment the seniority of 57 individuals has been revised and the benefit has been granted considering their seniority from the date of the panel which recommended their appointment. The applicant was not aware of this judgment as he had already been promoted as UDC way back. The seniority positions of these 57 individuals including the applicant's juniors have been interpolated in the revised seniority list dated 28.01.2003 at sr. nos. 141 to 176. This interpolation is between the seniority of Sh. Shajahan Khan and S.D. Misal at seniority positions at sr. no. 237 and 238 of the old seniority list dated 14.09.2001. Since the applicant came to know about the said judgment only when the respondents granted the benefit in the case of A.Balu, UDC, who was appointed of the same date as that of the applicant. His name was shown at sr. no. 96 in the seniority list while that of the applicant at sr. no. 100. The seniority has been granted to A. Balu with effect from the date of his panel as LDC and with effect from 31.03.1995 as UDC and further benefits have also been given to him in accordance with the revised seniority of the various posts.



3. Per contra, learned counsel for the respondents raised preliminary objection that the applicant had raised this issue at the belated stage in the year 2008 i.e. after a lapse of about 25 years. It is further submitted that the applicant was selected for appointment based in interview held on 27.09.1983 and thereafter the select panel/merit list was approved by HQ CE SC Pune on 10.10.1983. Accordingly, the applicant was informed about his selection for the post of LDC vide letter dated 13.10.1983. It was clearly mentioned in the offer of appointment letter dated 01.04.1985 vide Para No. 2 that the appointment would take effect from the date he join the office of GE (P) Naliya. On this offer of appointment letter, the applicant had joined the services on 06.04.1985. Therefore, his claim in the OA for counting of seniority from 27.09.1983 i.e. from the date of interview cannot be accepted.

4. It is also submitted that in the case of Prem Kumar & 57 others, who have been recruited in the panel on 02.07.1983 and joined the service during 1983 to 1987 are given seniority i.e. 02.07.1983 based on the judgment rendered by the Jodhpur Bench of the Tribunal in OA No. 126/2008. The respondents submitted that this seniority was given to Shri Prem Kumar and 57 others and not to all 87 candidates. Thus the seniority at such a belated stage cannot be challenged after a long time as held by the Hon'ble Apex Court in the case of **Lawrence Ceul D' Souza vs. Union of India & Others**, 1976 SCC (L45) 115 and the seniority cannot be reopened after long lapse of time to unsettle the settled position in the case of **B.S. Bajwa vs. State of Punjab & Others**, 1982(2) SCC 523.



4. Having considered the rival submission of the respective parties and upon considering the fact that the respondents have revised the seniority position of 57 individuals out of 87 individuals in view of the judgment rendered by the Jodhpur Bench of the Tribunal. To this effect, the applicant filed representation dated 13.10.2007 and further submitted representation dated 21.02.2008 but the same were not considered by the respondents. Even the case of the applicant was recommended by the Director (Personnel & Legal) addressed to Headquarter, Chief Engineer, Southern Command, Pune, for granting revised/notional seniority in the grade of LDC, UDC and Assistant and requested to look into the matter sympathetically and take necessary action for grant of revised seniority in the grade of LDC and UDC in respect of the applicant. Further the case of the applicant was recommended by respondent no. 3 vide his letter dated 17.03.2008 for grant of revised seniority in the grade of LDC. The respondents in their letter dated 18.06.2008 in Para No. 6 mentioned that this Headquarter is of the opinion that seniority now fixed shall not be changed as intimated vide this letter under reference. Thus change in seniority without relevant Court/CAT order for the individual will not be order and go against the principles of equality meaning thereby until and unless the individual redressed his grievances before the court of law, the respondents are not inclined to grant any benefit and further vide letter dated 14.07.2007 revised the seniority of LDCs based on merit of select panel. Further Joint Director (General), Pune vide his letter dated 03.10.2007 regarding revision of seniority list of LDCs based on merit of select panel draw personal attention of Chief Engineers that as per the instructions of E-in-C's, seniority list of LDCs



is to be revised based on 'Select Panel' of Merit List and their office was accordingly requested vide letter dated 14.07.2007 to send requisite details w.e.f. 1973 as per proforma alongwith CTC of BPs with Merit Panel in Soft as well as Hard copy. The details were required to be submitted by 05.08.2007.

5. It appears that neither the representations of the applicant nor the recommendations of the higher authorities had been properly considered by the respondents. Accordingly, we deemed it proper to direct the respondents to consider the representation so filed by the applicant and also consider the request made by the higher authorities, recommending his case in the light of the judgment, circulars and instructions issued by the Department from time to time.

6. With these observations, the OA shall stand disposed of with no order as to costs.

Anil Kumar

(ANIL KUMAR)
MEMBER (A)

K.S. Rathore

(JUSTICE K.S. RATHORE)
MEMBER (J)

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