

**Central Administrative Tribunal
Principal Bench
New Delhi**

**OA No.2459/2015
MA No.2579/2016**

This the 1st day of September, 2016

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K. N. Shrivastava, Member (A)**

1. Mrs. Raj Bala Kashyap W/o Mahesh Kashyap,
B-301, Sector-4, Plot No.11,
PNB Apartments, Dwarka,
New Delhi-110045.
2. Subhash Chand S/o Neki Ram,
Flat No.539, Pocket 13,
Phase-I, Dwarka,
New Delhi-110045.
3. Meena Gupta W/o Kamal Kumar Gupta,
C-323 Millennium Apartment,
Rohini Sector 18,
Delhi-110089.
4. Omkar singh S/o Bhura Singh,
R/o F-88, Khajoori,
Delhi-110094.
5. Vijay Ram Nautiyal S/o Daya Ram Nautiyal,
D-603, Mandir Marg,
New Delhi.
6. Rajeev Mehrotra S/o H. N. Mehrotra,
CC-144-C, Shalimar Bagh,
Delhi-110089.
7. Rakesh Kumar Pathak S/o A. K. Pathak,
B-4/256-C, Keshavpuram,
Delhi-110035.
8. Satyendra Singh S/o Sangam Singh,
R/o N-573, Sector-8, RK Puram,
New Delhi-110022.

9. Om Prakash Shah S/o K. L. Shah,
 R/o Flat No.171, J. Extension,
 2nd Floor, Gali No.5,
 Laxmi Nagar, Delhi-110092. ... Applicants

[All applicants are working as Assistant Director, Central Translation Bureau, Ministry of Home Affairs, New Delhi.]

(By Advocate: Mr. M. K. Bhardwaj)

Versus

1. Union of India through
 Secretary, Department of Official Language,
 Ministry of Home Affairs,
 NDCC Building-II,
 Jai Singh Road, New Delhi.
2. Director,
 Central Translation Bureau,
 Department of Official Language,
 Ministry of Home Affairs,
 B Block, 8th Floor, Paryavaran Bhawan,
 CGO Complex, Lodhi Road,
 New Delhi-110003.
3. Secretary,
 Government of India,
 Ministry of Personnel, Public Grievances & Pensions,
 Department of Personnel & Training,
 North Block, New Delhi.
4. Smt. Bharti Mishra,
 Central Translation Bureau,
 Department of Official Language,
 Ministry of Home Affairs,
 B Block, 8th Floor, Paryavaran Bhawan,
 CGO Complex, Lodhi Road,
 New Delhi-110003.
5. Smt. Rita Bhatia,
 Central Translation Bureau,
 Department of Official Language,
 Ministry of Home Affairs,
 B Block, 8th Floor, Paryavaran Bhawan,

CGO Complex, Lodhi Road,
New Delhi-110003.

6. Sh. Rajesh singh,
Central Translation Bureau,
Department of Official Language,
Ministry of Home Affairs,
B Block, 8th Floor, Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110003.
7. Mrs. Rekha Sharma,
Central Translation Bureau,
Department of Official Language,
Ministry of Home Affairs,
B Block, 8th Floor, Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110003.
8. Smt. Pragya,
Central Translation Bureau,
Department of Official Language,
Ministry of Home Affairs,
B Block, 8th Floor, Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110003.
9. Smt. Indira Rani,
Central Translation Bureau,
Department of Official Language,
Ministry of Home Affairs,
B Block, 8th Floor, Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110003.

[Respondents 4 to 9 are working as Assistant Director in the Central Translation Bureau, Ministry of Home Affairs, New Delhi]

10. Smt. Lekha Sareen,
Central Translation Bureau,
Department of Official Language,
Ministry of Home Affairs,
B Block, 8th Floor, Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110003.

11. Smt. Savita,
Central Translation Bureau,
Department of Official Language,
Ministry of Home Affairs,
B Block, 8th Floor, Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110003.
12. Sh. Om Prakash Singh,
Central Translation Bureau,
Department of Official Language,
Ministry of Home Affairs,
B Block, 8th Floor, Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110003.
13. Smt. Kumkum Asthana,
Central Translation Bureau,
Department of Official Language,
Ministry of Home Affairs,
B Block, 8th Floor, Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110003.
14. Smt. Shakti Bhaskar,
Central Translation Bureau,
Department of Official Language,
Ministry of Home Affairs,
B Block, 8th Floor, Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110003. ... Respondents

[Respondents 10-14 are working as Senior Translators, Central Translation Bureau, Ministry of Home Affairs, New Delhi]

(By Advocates: Mr. V. S. R. Krishna)

ORDER

Justice Permod Kohli, Chairman :

Present OA has been filed by the applicants who are serving as Assistant Directors in the Central Translation Bureau, Department of

Official Language under the Ministry of Home Affairs, seeking the following reliefs:

- “a. Quash and set aside the Impugned Final Seniority List of Senior Translators issued on 18.06.2015;
- b. Direct the official respondents to re-draw the Seniority List of Senior Translators, strictly as per Orders dated 28.08.2012 and 01.08.2013 of the Hon’ble Supreme Court, advice of DOPT dated 18.10.2013, advice of Department of Legal Affairs dated 05.11.2013 and opinion of the learned Additional Solicitor General dated 14.12.2013;
- c. Pass any other relief that this Hon’ble Tribunal may consider fit in the interest of justice.”

2. Facts leading to the filing of the present OA are that the

applicants are direct recruits who were appointed as Senior Translators on selection through the written examination conducted by UPSC. The post of Senior Translator is a Group ‘B’ non-gazetted non-ministerial selection post. The applicants are presently holding the post of Assistant Director. Private respondents 4 to 9 were initially appointed on *ad hoc* basis as Senior Translators and subsequently regularized with the approval of the UPSC. Respondents 10 to 14 were also initially appointed on *ad hoc* basis as Senior Translators and subsequently regularized pursuant to the order/judgment dated 16.09.1998 passed by this Tribunal in OA No.2276/1996 filed by Om Prakash Singh and two others (private respondents 12, 13 and 14 in the present OA). These private respondents claimed seniority from the date of their initial *ad hoc*

appointment. Aggrieved of an order dated 30.11.1995 passed in pursuance of the directions of the Tribunal in OA No.1448/1995, and the seniority list issued by the respondents on 08.12.1995, they approached the Tribunal in the aforesaid OA claiming seniority over the private respondents therein. The said OA was decided vide order dated 16.09.1998 with the following directions:

“We hold that the applicants seniority should be considered only from the date of regularization by the Union Public Service Commission, the direct recruits, from the date of appointment on recruitment or empanelment, the departmental promotes, from the date of promotion and the applicants, from the date of the approval of regularization. We, therefore, find no merit in the claim of applicants in this O.A. It is, therefore, dismissed. No costs.”

The OA of the private respondents having been dismissed, order of the Tribunal was challenged before the Hon’ble High Court of Delhi in WP(C) No.5429/1998. This writ petition filed by the private respondents was allowed vide judgment dated 13.07.2010. The Hon’ble High Court passed the following order:

“10. We are persuaded to exercise our powers under Article 226 of the Constitution of India in the facts of the present case because if the impugned judgment is allowed to stand grave injustice will be caused to the petitioners who would be denied benefits and seniority which flows from the binding nature of the judgment dated 4.3.1994 inter parties which had become final as neither the Union of India nor the private respondents have ever challenged the same in any manner whatsoever.

11. In view of the above the impugned judgment dated 16.9.1998 and the impugned order dated

30.11.1995 are set aside. The appointment of the petitioners shall be taken pursuant to the judgment dated 4.3.1994 w.e.f. the respective dates of their original appointment and as also so approved by the UPSC. A fresh seniority list in accordance with our present judgment be now drawn up within a period of two (2) months from today."

The judgment of the Delhi High Court became subject matter of further challenge before the Hon'ble Supreme Court in Civil Appeal No.6202 of 2012 arising out of SLP(C) No.23258 of 2010 - *Bharti Mishra v Union of India & others*. The Hon'ble Supreme Court vide judgment dated 28.08.2012 set aside the judgment of the High Court and issued the following directions:

"In our opinion, the case of the respondents is squarely covered under category 'B' and they were rightly held to be entitled to seniority from the dates they had been initially appointed even though the order of regularization was issued on 2.11.1994. The appellants were also entitled to the seniority from the date of initial appointment under the same clause even though the appellants claimed to have succeeded in the examination held in 1988 and appointed upon consultation with the U.P.S.C. Practically, it appears that there is absolutely no difference in the manner in which the initial appointment was made of the appellants as well as the respondents. They were all appointed without the consultation with U.P.S.C. Furthermore, it is a matter of record that all of them have continued in service without any break.

In view of the above, the civil appeals are allowed. The judgment of the High Court is set aside. Respondent No.1 - Union of India is directed to fix the inter se seniority of the appellants as well as the respondents from the respective dates of ad-hoc appointment which have been subsequently regularized."

Not satisfied with the directions, the Union of India filed review petition (civil) No.1087-1089 of 2013 against the aforesaid order of the Hon'ble Supreme Court, pleading the case of direct recruits regarding their seniority. The said review petition was disposed of vide order dated 01.08.2013 with the following directions:

“In our opinion, the apprehensions expressed by the learned Additional Solicitor General are wholly unfounded as the controversy involved in the present proceedings did not concern the fixation of seniority of direct recruits. It was limited only to the seniority between appointees who had been appointed with the approval of the U.P.S.C. and other ad hoc appointees who were subsequently regularized with the approval of the U.P.S.C. Hence, there is no error in our order to warrant any review. We may however clarify, that the regularly recruited direct recruits (in accordance with rules) shall remain senior to the ad hoc appointees.

The review petitions are disposed of accordingly.”

3. Consequent upon the aforesaid directions, the official respondents were required to fix the seniority in terms thereof. They referred the matter to the DOP&T for advice. DOP&T rendered its advice on 18.10.2013 in the following manner:

- “a. Seniority of all direct recruits (outsider category i.e. those recruited by following the valid process of Recruitment Rules, appointed in a Recruitment year, would be based on their inter-se merit as approved by the UPSC (DOP&T OM dated 11.11.2010)).
- b. All other appointees, regularized in that recruitment year should be placed junior en bloc to the direct recruits (SC order dated 01.08.2013).

- c. The inter se seniority of these appointees (initial ad hoc appointee) would be based on the date of initial appointment (SC order dated 28.08.2012).
- d. This would ensure that sanctity of UPSC is retained in the context of the provisions of RRs as well as the directions of court."

It appears that despite advice of the DOP&T, the matter was again referred to the Department of Legal Affairs, which rendered its advice on 05.11.2013, which reads as under:

"9. The seniority of three categories of official as per formulation suggested by the DOPT appear to be in consonance with the directions of the Supreme Court in terms of their orders dated 28.08.2012 and 01.08.2013. However, it would be appropriate that matter may be forwarded to CA Section for soliciting considered opinion/concurrence of Mrs. Indra Jaisingh, Ld ASG on the proposed seniority list of three categories of official by the CTB."

Further advice of the then ASG was obtained who concurred with the advice of the DOP&T. Based upon these opinions/advices, a final seniority list of Senior Translators was notified on 30.06.2014. According to the applicants, this seniority list was strictly in accordance with the directions of the Hon'ble Supreme Court contained in its orders dated 28.08.2012 and 01.08.2013. On 19.12.2014 official respondents issued another provisional seniority list of Senior Translators indicating seniority as on 01.01.2013. In the said seniority list, private respondents in the present OA were shown senior to the applicants. The applicants made representation on 03.03.2015 against the provisional seniority list dated 19.12.2014

requesting the official respondents to implement the final seniority list dated 30.06.2014. They also filed OA No.1857/2015 before this Tribunal seeking quashing of the provisional seniority list dated 19.12.2014. The said OA was withdrawn with liberty to challenge the final seniority list, if notified. The official respondents thereafter issued the final seniority list dated 18.06.2015 of the Senior Translators. In this seniority list the applicants – direct recruits, are *en bloc* shown juniors to the private respondents. The applicants have indicated a chart showing comparative seniority of the applicants vis-a-vis the private respondents, as shown in the earlier final seniority list dated 30.06.2014 and the impugned seniority list dated 18.06.2015. It is evident that all the applicants have been relegated to lower positions in the impugned seniority list as compared to the final seniority list dated 30.06.2014. As a matter of fact, both these seniority lists are shown to have been issued in compliance of the directions of the Hon'ble Supreme Court vide judgments dated 28.08.2012 and 01.08.2013.

4. The official as well as private respondents have contended that the impugned seniority list dated 18.06.2015 has been issued in accordance with the directions of the Hon'ble Supreme Court dated 28.08.2012 and 01.08.2013. If both the seniority lists are notified in accordance with the directions of the Hon'ble Supreme Court, then the discrepancy which has occurred should not have

been there. It is relevant to note that when the seniority list dated 30.06.2014 was notified, none of the private respondents seems to have challenged the same. From the impugned seniority list we find that applicant No.1, Smt. Rajbala Kashyap, a direct recruit, is shown at serial number 21, i.e., below Ms. Savita (private respondent No.11) at serial number 12, who is shown to have been promoted and regularised vide CAT order dated 04.03.1994. Similarly, Smt. Kumkum Asthana at sl. no.28 (regularised vide CAT order dated 04.03.1994), Smt. Manjula Mehta at sl. no.29 (regularised by UPSC) and Shri S. P. Kandpal at sl. no.30 (regularised by UPSC) are shown to be senior to Shri Inderjit Chawla (sl. no.35) and Shri Rakesh Kumar Pathak (sl. no.36), both direct recruits of 1990 and 1991 respectively. Likewise, direct recruits at sl. nos.42 to 47 are shown juniors to regularized promotes. The respondents have not been able to justify this discrepancy, notwithstanding the fact that in the circulars the impugned seniority list is said to be issued pursuant to the judgments of the Hon'ble Supreme Court referred to above.

5. We are of the considered view that the impugned seniority list has not been issued in accordance with the directions of the Hon'ble Supreme Court dated 28.08.2012 and 01.08.2013. This OA is accordingly allowed with the following directions:

- (a) The impugned seniority list dated 18.06.2015 is hereby set aside and quashed.

(b) The official respondents are directed to re-arrange the seniority of the direct recruits and promotes whose *ad hoc* period has been regularised, in the ratio of 30:70 as per the recruitment rules.

(c) The direct recruits recruited in a particular calendar year would rank senior to the regularised *ad hoc* Senior Translators who were regularised in that year.

(d) The *inter se* seniority of *ad hoc* regularised Senior Translators would be from the date of their respective regularisation. However, it will not affect the direct recruits who were appointed directly through UPSC and they would be inducted in their respective slots in the years of their recruitment above regularised Senior Translators, notwithstanding their date of initial appointment on *ad hoc* basis.

(K. N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

/as/