

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.100/2751/2012

Wednesday, this the 3rd day of August 2016

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

1. Suresh Chandra Gaur, s/o late Shri Ishwar Chand
B-118 Bhagirathi Vihar
Delhi
2. Narendra Prasad, s/o Shri Atar Singh
5472/3A, Gali No.16, Balbir Nagar
Extn., New Delhi-32
3. Rakesh Kumar Gupta s/o late Shri Nathu Mal
633, Pkt. D, Dilshad Garden
Delhi – 95
4. Mahesh Pal Giri, s/o late Shri Anoop Giri
H.No. 327, Block C, 28 Road West
Karwal nagar, Delhi-94
5. Nasir Tajammul, s/o Shri Tajammul Hussain
A-29/S-1, Block A, Dilshad Garden
Delhi-95
6. Netra Pal Singh s/o late Shri Tikam Singh
B-358, MIG Flats, East of Loni Road
Delhi-93
7. Jai Prakash Bansal s/o late Shri Jag Mal
Village Ganoli, PO Chirori
Distt. Ghaziabad (UP)
8. Khurshid Alam s/o late Shri M.Y. Ansari
31-B/A-1, Mayur Vihar III, Delhi-96
9. Shiv Kumar Jain s/o Sohan Lal Jain
H.No.1/4859 (A), Gali No.10
Balbir Nagar (Ext.) Shahdara Delhi-32
10. Dharamvir Singh s/o late Shri Baru Singh
1/3416, Ram Nagar (Extn.), Shahdara, Delhi-32
11. Jhamman Singh s/o Shri Ganga Singh
F-7/424, Ran Nagar, Loni Border
Ghaziabad

12. Bhagwan Das Gupta s/o Shri Rameshwar Dayal Gupta
A 16/33A, Brij Puri
Delhi-94
13. Narender Singh Verma s/o late C M Verma
C-10/91, Yamuna Vihar, Delhi-53
14. Surendra Kumar s/o late Shri Revati Prasad
Block, C-14/Z-4, Dilshad Garden, Delhi
15. Shashi Bhushan Gaur, s/o late Shri P.D. Sharma
10/54, Shanker Gali, Viswar Nagar, Shahdara
16. Harish Chander Singh s/o Shri Tej Pal Singh
D-36, Gali No.8, Mandowli (XXXX)
Delhi-92
17. Devi Sharan Singh s/o late Shri Harish Chander Singh
H.No.181 Gali No.5 Vill Gopal Pur
Post Azadpur Delhi-09
18. Ajay Singh s/o Bharat Singh Chauhan
C-11, Scharya Niketan
Mayur Vihar PH.1 Delhi
19. Vinod Kumar Misra s/o Shri Om Prakash Misra
H.No.172-A, Pkt. F, GTB Enclave
Dilshad Garden, Delhi-093
20. Sushil Kumar Mittal s/o Shri P C Mittal
138 A Pkt. A, Dilshad Garden, Delhi
21. Satya Prakash Giri s/o Shri Rajpal Giri
40-A, Mayur Vihar, PH-1
Pocket -3, Delhi-91
22. Hem Chander Sharma s/o C M Sharma
341-C, Pkt.II, Mayur Vihar, PH-1
New Delhi-91
23. Tahir Modh. Khan s/o late Shri Rasheed Ahmed Khan
H.No.316, Ward No.23, Suneeta Vihar
Loni, Ghaziabad
24. Devender Kumar Gupta s/o late Shri D R Gupta
A-14B, Dilshad Garden
Delhi-95
25. Anwar Ahmad s/o late Shri Bhunder Khan
C-61, Radhey Shyam, Parle Extn. Delhi-5

26. Yogesh Sharma s/o late Shri Bharat Singh Sharma
93-6-II GDA Flat Sector-2,
Rajender Nagar, Shabibabad (UP)
27. Barjor Singh s/o late Shri Diwari Lal
25-B Pocket AI, Mayurvihar
Phase III, Delhi-96
28. Moti Ram Sharma s/o Shri Sita ram Sharma
B-413, MIG Flats East of Loni Road
Shahdara Delhi-93
29. Pradeep Kumar Goel s/o Shri Dhan Prakash Goel
10468A, Gali No.4B, Balbir Nagar
Ext. Shahdara, Delhi-32
30. Vilayat Husain s/o late Shri Kifayat Husain
37-B/Pocket B-8, Mayurvihar
PH.3, Delhi-96
31. Ranvir Singh s/o late Shri Baldhari Singh
C-101, Amar Colony, East Gopal
Delhi-94
32. Anil Kumar Sehgal, Shri Des Raj Sehgal
N-84, Sector-12
Noida 201301
33. Shabbir Ahmed s/o late Shri Kale Khan
V-78, Gali No.24, Vijay Park
Maujpur, Delhi-53
34. Arvind Gupta s/o late Shri K P Gupta
A-58, Gali No.4, New Modern
Shahdara, Delhi-32

..Applicants

(Mr. U Srivastava, Advocate)

Versus

Union of India through

1. The Secretary
Ministry of Urban Development
Parliament House, Parliament Street
New Delhi
2. The Delhi Development Authority
Through its Vice Chairman/Commissioner (P)
B Block, Vikas Sadan, INA, New Delhi

3. The Deputy Director (P)-II
B Block, 4th Floor, Vikas Sadan
INA, New Delhi

..Respondents

(Mr. Manish Garg, Advocate)

O R D E R (ORAL)

Justice Permod Kohli:

The dispute in the present O.A. relates to seniority of the applicants *qua* a large number of persons, who were working as Work Assistants along with the applicants and came to be absorbed as Junior Engineers (Civil) in terms of the decision of the Management dated 15.02.1985 (page 54 of the paper book) followed by the decision dated 27.02.1985 (page 64). Vide the decision dated 15.02.1985, all the Work Assistants, who were to be appointed as Junior Engineers (Civil), were to be granted seniority from the date of their joining as Work Assistants, as they were qualified to be appointed as Junior Engineer (Civil). They were issued offer of appointment on 01.03.1985. However, they were not allowed to join in view of some proceedings pending before the High Court of Delhi. Subsequently, the Management took a decision on 12.03.1985 (page 72 of the paper book) and the applicants along with other Work Assistants were offered appointment as Junior Engineer (Civil). The applicants along with other Work Assistants absorbed as Junior Engineers (Civil) joined DDA against the posts of Junior Engineer (Civil) and were given seniority from the dates of their joining in DDA.

2. The first tentative seniority list was circulated vide circular dated 18.01.1993 (page 77) inviting objections, if any, from the concerned Junior

Engineer (Civil). Some of the persons filed their objections to the said tentative seniority list. A copy of one of such objections filed by the applicant, Suresh Chandra Gaur on 16.02.1993 is placed at pages 81-82 of the paper book. Final seniority list has been notified, a copy whereof has been placed along with the counter reply as Annexure R-6. It seems that the applicants were aggrieved of their seniority as they claimed seniority from the date of joining as Work Assistants in the DDA in terms of the decision of the Management dated 15.02.1985. Hence O.A. No. 868/2008 came to be filed before this Tribunal by the applicant, Suresh Chandra Gaur, which was, however, found deficient of various details and was allowed to be withdrawn with liberty to the applicant therein to file fresh one, as is evident from the Order dated 07.08.2008. Thereafter, the applicant, Suresh Chandra Guar filed another O.A. No.1289/2010. It seems that the Tribunal felt that all those persons who were likely to be affected in the event the O.A. is allowed were not impleaded as party respondents. However, while deciding M.A. No.1098/2010 for condonation of delay, it was observed that applicant's name was swapped with another person with the same name and on account of said mistake he had lost seniority by more than 100 places. After disposal of the aforesaid M.A., the applicant amended O.A. No.1289/2010 impleading 128 persons as party respondents, whose seniority was likely to be affected. This O.A. was also permitted to be withdrawn with liberty to file fresh one on account of the reply filed by respondent Nos. 68 and 69, who claimed their seniority over and above the applicant, Suresh Chandra Gaur, stating that they had joined on the post of Work Assistant prior to the joining of the applicant.

3. It is on the strength of aforesaid liberty granted to the applicant in O.A. No.1289/2010 that the present O.A. has been filed seeking a direction to implement the decision of the Management dated 15.02.1985 to grant the applicants seniority from the date of their joining in the DDA, i.e., as Work Assistants, and further direction that the inter-se-seniority may also be fixed from the date of their joining as Work Assistants and not joining as Junior Engineers (Civil).

4. During the course of arguments, we find that the claim of the applicants cannot be allowed for the simple reason that all those persons who are likely to be affected in the event this O.A. is allowed have not been impleaded as party respondents. Under normal circumstances, we might have allowed the applicants to amend the O.A. and implead the affected persons as party respondents. However, this litigation of seniority is going on since the date of their absorption and earlier two O.As. have been filed and withdrawn. The first O.A. (O.A. No.868/2008) was withdrawn by the applicant therein, who is also applicant No.1 in the present O.A., with liberty to file fresh application, whereas the second O.A. (O.A. No.1289/2010) was permitted to be withdrawn with liberty to the applicant therein to file substantive O.A. for the same cause of action. We fail to understand why all those affected persons have not been impleaded as party respondents in the present O.A. It is settled law that no adverse order can be passed in absence of an affected person, as it would be violative of principles of natural justice. Hence, we cannot grant any relief to the applicants in the present O.A. in the absence of the persons likely to be affected. Otherwise also, we find that the final seniority list was issued in

the year 1998 and we do not deem it appropriate to disturb such a long settled seniority at this stage.

5. Mr. Srivastava, learned counsel appearing for the applicants has also drawn our attention to an office note dated 30.01.2004 (page 99 of the paper book) wherein a decision has been taken to grant the benefit of seniority to applicant No.1 – Suresh Chandra Gaur on account of mistake of identity of name. In regard to this aspect, learned counsel appearing for the respondents has pointed out the order dated 28.11.2006 (Annexure R-7) whereby the representation of the applicant No.1 – Suresh Chandra Gaur for fixation of seniority has been rejected. This order is not under challenge before us.

6. For the above reasons, there is no merit in this O.A., same is accordingly dismissed. No costs.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

August 3, 2016
/sunil/