

## CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, R A N C H IOA/051/00224/2018Date of Order: 12-MAR-2019**C O R A M**

HON'BLE MR. JAYESH V.BHAIRAVIA, MEMBER (JUDL.)

HON'BLE MR. DINESH SHARMA, MEMBER (ADMN.)

.....

Allaudin Khan, s/o Late Khalil Khan, aged about 52 years, resident of Asnabad, PO-Karma, PS-Jhumritileya, District-Koderma.

.....Applicant.By Advocate:- Mr. M.A.Khan.

Vs.

1. Union of India through Director General, Government of India, Ministry of Labour & Employment, Jaisalmer House, Mansingh Road, New Delhi-110 011.
2. Labour Welfare Commissioner, Ministry of Labour & Employment, Sharam Bhawan, Government of India, PO-Hinoo, PS-Doranda, District-Ranchi-834 002.
3. Welfare Commissioner, Ministry of Labour & Employment, Government of India, Office of the Welfare Commissioner, GPO Building, 5<sup>th</sup> Floor, D-Wing, Karpuri Thakur Sadan, Ashiana Digha Road, Patna-800 025.
4. Account Officer, Ministry of Labour & Employment, Sharam Bhawan, Government of India, PO-Hinoo, PS-Doranda, District-Ranchi-834 002.
5. Rakesh Kumar Sinha, working as UDC, Ministry of Labour & Welfare Organisation, Govt. of India, Office of the Welfare Commissioner, GPO Building 5<sup>th</sup> Floor, D-Wing, Karpuri Thakur Sadan, Ashiana Digha Road, Patna-800 025. ....Respondents.

By Advocate:- Mr. Rajendra Krishna, Sr. Standing Counsel.

Mr. Niranjana Kumar (For Respondent no.5).

**O R D E R**  
**(ORAL)**

**Dinesh Sharma, Member (Admn.):**- The applicant has claimed in this

OA to be senior to respondent no.5 (Rakesh Kumar Sinha) and prayed

for the relief of quashing the seniority list dated 25.09.2017

(Annexure-14). He has also requested for promoting him as UDC w.e.f. 31.08.2007 and thereafter as Head Clerk-cum-Accountant w.e.f. 01.09.2012. He has based his claim on the basis of his allegedly being senior to the respondents right since the beginning of their service in the respondent department and also specifically on the basis of a transfer order 30.06.2014 (Annexure-3, where his name is mentioned above that of respondent no.5) and the Minutes of the Meeting held on 27.06.2014 (Annexure-3/A) where, again his name has been mentioned above that of respondent no.5, "as per the seniority and willingness".

2. The respondent no.5 has filed a written statement in which he has annexed an office order dated September 21, 2001 under which the applicant is transferred at his own request to the office of Welfare Commissioner, Karma. He has also annexed a communication No. Admn. 7557, dated 21.12.2001, where the applicant has been shown to have been offered posting as LDC on condition that he will rank junior to all existing Junior Clerks working in Karma region. The respondent no.5 has also produced a copy of a letter dated 26.12.2001 in which the applicant has reported for duty following the letter dated 21.12.2001 (mentioned above). The respondent has further alleged that following this he was later promoted as UDC w.e.f. 30.08.2007 and thus, has remained senior to the applicant who was promoted as UDC only in the year 2010. On these grounds, the applicant's claim for seniority over him deserves to be dismissed.

3. The respondent department has also filed their written statement in which they have, more or less, supported the claim made by the private respondent stating that the applicant's transfer made at his own request and his accepting to be junior most amongst all the existing Junior Clerks prohibits him from raising this claim now.

4. The applicant has filed a rejoinder in which he has again claimed that his seniority should be counted from his initial date of journey i.e. 11.09.1991 as has been done in case of Vimal Kumar Sinha. He has also alleged that the respondent no.5 had entered the service as 'Sevika' which is a separate cadre and he has jumped in the cadre of Clerks on compassionate ground and, therefore, he should not be put above the applicant.

5. We have gone through the pleadings and heard the arguments of the learned counsels of both the parties. The applicant has not been able to controvert the fact that he had agreed to be transferred to Karma on his own request and also not objected to the condition about his being treated as the junior most to the existing junior Clerks in Karma on that date of joining. He has also not produced anything to show that he had ever seriously objected to the promotion of respondent no.5 as UDC in 2007 while he himself was promoted only in the year 2010. His claim is based only on two documents as at Annexures-3 & 3/A which are at best indirect and circumstantial evidence of his claim regarding seniority. None of these two documents are in effect seniority list and the mention of word seniority in the second document (Annexure-3/A) also does not

conclusively prove that the UDCs mentioned in that letter were in the order of seniority.

Since the applicant has totally failed to prove his claim of seniority over respondent no.5, the OA is dismissed. No order as to costs.

Sd/-  
(Dinesh Sharma)  
Member(Admn.)

Sd/-  
(Jayesh V.Bhairavia)  
Member (Judl.)

skj