

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 2775/2014

New Delhi, this the 12th day of December, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**



1. Shri Manoj Kumar Yadav
S/o Shri Pal Singh Yadav
R/o Quarter No.E-2
DJB Staff Quarters, Aram Bagh
Paharganj, New Delhi-110055.
2. Smt. A.G. Susmitha
W/o Shri K. Rajesh Kumar
R/o C-1101, Vijaya Apartment
Ahinsa Kand, Indirapuram
U.P.-201014.

.. Applicants

(By Advocate : Shri Sourabh Ahuja)

Versus

1. Delhi Jal Board
Through its Chief Executive Officer
Govt. of NCT of Delhi
Varunalaya Building Phase 2
Karol Bagh, New Delhi-110005.
2. Shri Anil Mishra
S/o Shri Kuber Prasad
Flat No.102-C, Block C-6A
Janakpuri, Delhi-110058.

.. Respondents

(By Advocates : Shri Vishwendra Verma for R-1 and
Ms. Kamlakshi Singh Chauhan for R-2)

O R D E R (ORAL)**Justice L. Narasimha Reddy, Chairman**

The 1st respondent herein issued an Advertisement in September 2003, inviting applications for appointment to 4 posts of Assistant Bacteriologist. The qualifications stipulated were (a) M.Sc. in Bio-Chemistry/ Microbiology/Bacteriology from a recognised University; or (b) Degree in Science with Chemistry/Bio-Chemistry/ Biology/Microbiology/Bacteriology from a recognised University, with 3 years experience as Bacteriological examination of Water. The 2nd respondent and several others applied for the post. The selection was entrusted to the Delhi Subordinate Services Selection Board (DSSSB). The process included conducting of a Written Test. In the list of selected candidates, the 2nd respondent was placed at Sl.No.1, one Mr. Rajesh Gupta at Sl.No.2 and the applicants herein at Sl.Nos. 3 and 4.

2. It is stated that the appointment of the 2nd respondent was delayed. In other words, while the applicants were issued orders of appointment on

20.12.2004, the 2nd respondent was appointed on 25.07.2007 and he joined on 16.08.2007.



3. The 1st respondent issued a provisional seniority list dated 01.09.2011. The applicants were placed at Sl.Nos. 2 and 3, and the 2nd respondent was placed at Sl.No.4. On consideration of the representations, submitted in response to the provisional seniority list, the 1st respondent issued a final seniority list dated 10.07.2012. The 2nd respondent was placed at Sl.No.1, and the applicants were included at Sl.Nos. 3 and 4, in consonance with the ranking assigned by the DSSSB. This O.A. is filed challenging the order of appointment of the 2nd respondent as well as the seniority list dated 10.07.2012.

4. The applicants contend that the 2nd respondent was not eligible to be appointed, since the Postgraduate Degree studied by him was in Bio-Technology. According to them, the fact that the selection criterion was changed afterwards, showing that the 2nd respondent was not qualified and his appointment is vitiated. They further

submit that the impugned seniority list does not reflect the correct state of affairs. When the 2nd respondent was appointed 3 years subsequent to them, he cannot be placed above, in the seniority list.



5. Respondent No.1, on the one hand, and the 2nd respondent, on the other hand, filed counter affidavit opposing the O.A. It is stated that the delay in issuing order of appointment to the 2nd respondent should not come in the way of fixing the seniority. According to them, seniority is decided on the basis of the ranking assigned by the Selection Committee; and the mere fact that the appointment of the 2nd respondent was delayed due to administrative reasons, should not come in the way.

6. On 27.09.2017, this Tribunal dismissed the O.A., on the ground of limitation. It was observed that the appointments, which were made in the year 2007, and the consequential seniority list published in the year 2011, cannot be permitted to be challenged in an O.A. filed in the year 2014. The applicants filed Writ Petition No.396/2018. The Hon'ble High Court took the view that

though the challenge to the appointment of the 2nd respondent is barred by limitation, the seniority being a continuous cause of action, can be agitated in the O.A. Accordingly, the O.A. was remanded.



7. Today, we heard Shri Sourabh Ahuja, learned counsel for the applicants and Shri Vishvendra Verma, learned counsel for respondent No.1 and Ms. Kamlakshi Singh Chauhan, learned counsel for respondent No.2, in the limited context of challenge to the seniority list.

8. It is not in dispute that the DSSSB, which selected the candidates for the post of Assistant Bacteriologist, placed 2nd respondent at Sl.No.1, one Mr. Rajesh Gupta at Sl.No.2 and the applicants herein at Sl.Nos. 3 and 4. It is fairly well settled principle of law that in the context of direct recruitment, the seniority is determined with reference to the ranking assigned by the Selection Committee. It is not uncommon that the candidates, who were selected in the same batch, do not join on the same date. Many a time, separate orders of appointment have to be issued to some of the candidates in the same batch for

valid reasons. The date of joining is also delayed due to factors, such as delay in getting relieved from existing employment, and the like. It is with a view to avoid those imponderables, that the foolproof principle is involved, i.e., the seniority for direct recruit candidates shall be decided on the basis of the ranking assigned by the Selection Committee.



9. Learned counsel for the applicants relied upon the judgments in **Ashok Kumar Shrivstava and Ors. vs. Ram Lal and Others**, CA No.4968/2007 (paras 76 & 81), **Hemani Malhotra vs. High Court of Delhi**, (2008) 7 SCC 11 (para 19) and **K. Meghachandra Singh & Ors. vs. Ningam Siro & Ors.**, Civil Appeal No.8833-8835 of 2019 and batch, dated 19.11.2019 (paras 30, 31 & 40). From a perusal of those judgments, we do not find any deviation from the very principle that the seniority is to be reckoned on the basis of the ranking.

10. Learned counsel for the respondent No.2 relied upon the judgment of the Hon'ble Supreme Court in **Pillu Sitaram Patrudu and Others vs. Union of India and**

Others, AIR 1997 SC 250. Their Lordships categorically held that once the Selection Committee assigned ranking, the seniority is to be decided only with reference to that; and the delay in issuing order of appointment to some of them or the delay in joining the duties, does not make any difference.



11. We do not find any merit in the O.A. and, accordingly, the same is dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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