

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**O.A. No. 2579/2014
M.A. No. 2202/2014**

New Delhi, this the 25th day of November, 2019

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



1. Som Nath Chuchra
(Aged about 59 years)
S/o late Shri Jiwan Das Chuchra
Working as Assistant Director (Inv-I)
in the Department of Posts
R/o 321/14, Daya Nand Nagar,
Delhi.
2. Surender Kumar
(Aged about 57 years)
Working as Assistant Director (GDS)
in the Department of Posts
R/o 1096, Sector 8, R.K. Puram
New Delhi-110022.

.. Applicants

(By Advocate : Shri Amit Anand)

Versus

Union of India & Ors. through

1. The Secretary
Department of Posts
Dak Bhawan, New Delhi-110001.
2. The Secretary
Department of Personnel & Training
North Block, New Delhi-110001.

.. Respondents

(By Advocate : Shri Hanu Bhaskar)

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

The applicants joined the service of the Postal Department as Postal Assistant. At the stage of Junior Time Scale (JTS), there is a provision for direct recruitment and promotion. The applicants were assigned JTS in the year 2007 against the vacancies of the year 2006-07. The direct recruitments were also made to that post. The Administration issued Provisional Seniority List and the claims for various categories were pending consideration. The applicants were promoted to Senior Time Scale (STS) w.e.f. 01.04.2012.

2. The respondents proposed to revise the inter se seniority between direct recruits and promotees in JTS, on receiving several representations. In the meanwhile, the Govt. of India, Department of Personnel & Training (DoPT) has also issued the Office Memorandum dated 04.03.2014, in the light of judgment of the Hon'ble Supreme Court in **Union of India & Ors. vs. N.R. Parmar & Ors.**, (2012) 13 SCC 340.

3. On noticing that such steps are being taken, the applicants have made a detailed representation. According to them, they are entitled to be assigned the seniority with reference to the date of appointment and the direct recruits also deserve to be treated on similar lines.



4. The representation of the applicants was disposed of, through a letter dated 11.06.2014. The circumstances, under which the proposed revision is taking place, were mentioned in detail. Their plea was rejected. This O.A. is filed challenging the communication letters dated 11.06.2014 issued to the applicants.

5. It is stated that the view taken by the respondents in the context of fixation of the seniority is totally incorrect and that the plea of the respondents that the promotees have been extended the benefit of two years weightage, is factually not correct. The applicants further contend that whatever may have been the circumstances, under which the OM dated 04.03.2014 was issued by the DoPT, a different situation emerged in view of a recent judgment of the Hon'ble Supreme Court in **K. Meghachandra Singh &**

Ors. vs. Ningam Siro & Ors., Civil Appeal Nos.8833-8835/2019 and batch, decided on 19.11.2019.



6. Respondents filed a counter affidavit opposing the O.A. It is stated that a provisional seniority list was prepared for Group 'A' and the necessity to revise the same arose on account of several developments. The respondents stated that the various contentions advanced by the applicants through their representations were dealt with in detail in the impugned communication and that it reflects the correct position, in law.

7. We heard Shri Amit Anand, learned counsel for the applicants and Shri Hanu Bhaskar, learned counsel for the respondents.

8. The issue pertains to fixation of seniority in the Group 'A' of Indian Postal Service (IPoS). That, in turn, would guide promotion to the grade of STS as well as JAG. When the respondents published a final seniority list in the grade of JAG on 01.10.2012, the applicants did not feel aggrieved by the same. The record also does not show

that any proceedings were instituted before the Tribunal, challenging the same.



9. On 01.04.2014, the respondents came forward with a proposal to revise the seniority list for Group 'A', JAG. The place of the applicants was shifted through the judgment in **N.R. Parmar's** case. Naturally, they had grievances against that. A detailed representation was made raising the legal as well as factual contentions. The reply given by the respondents is equally lengthy and almost all the contentions were dealt with.

10. What, however, is not clear from the record is as to how a final seniority list, once published on 01.10.2012, can be changed. Though alterations can be made in a provisional seniority list, based on the representations made by the aggrieved employees, the Administration loses the right to meddle with the final seniority list, once it was published. It is only when final seniority list is challenged before a court of law and directions are issued for altering the same, that an exercise can be undertaken. In the instant case, no reference is made to any order of Court or Tribunal, and the exercise of revising the seniority list was

undertaken by the respondents, on their own accord. That is totally impermissible in law.



11. In the impugned communication dated 11.06.2014 as well as the counter affidavit, reference is made to the O.M. dated 04.03.2014, issued by the DoPT. That, in turn, came into existence in the light of the judgement of the Hon'ble Supreme Court in the case of **N.R. Parmar**. In that O.M. also, it was mentioned that the seniority list, which has assumed finality, shall not be reopened. Despite that, the seniority list dated 01.10.2012 was sought to be revised.

12. Assuming that the O.M. dated 04.03.2014 necessitated and warranted the revision of seniority list dated 01.10.2012, the very basis ceased to exist in view of the recent judgment of the Hon'ble Supreme Court, dated 19.11.2019. The principle laid down in **N.R. Parmar** held to be not good law and thereby the very foundation for the O.M. dated 04.03.2014 has ceased.

13. Learned counsel for the respondents submitted that the basis for the revision of seniority list was

indiscriminate extension of the benefit of the weightage of two years and deviation from the recruitment rules; and once it was found that the same is not permissible, the alteration became inevitable. Learned counsel for the applicants has seriously disputed these aspects.



14. We are of the view that the question of this nature needs to be addressed afresh in the light of the recent judgment of the Hon'ble Supreme Court in **K. Meghachandra Singh's** case. It is brought to our notice that the revised seniority list was published on 01.06.2014, during the pendency of the O.A. That cannot represent the correct state of affairs. At the same time, we do not intend to set aside that, straightforwardly. It needs to be treated as provisional, pending the exercise, which the respondents need to undertake.

15. We, therefore, dispose of the O.A. directing the respondents to undertake a fresh exercise for fixation of seniority in the post of Group 'A' Officers in the IPoS, duly applying relevant principles of law as enunciated by the Hon'ble Supreme Court in its judgment dated 19.11.2019, the recruitment rules governing the issue and the relevant

Circulars/OMs. For this purpose, the seniority list dated 01.06.2014 shall be treated as provisional and the respondents shall take into account, the representations, which they may invite from the affected Officers. The exercise in this behalf shall be completed within a period of three months from the date of receipt of a certified copy of this order. There shall be no order as to costs.



(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/jyoti/