
(2025) 11 CAT CK 1785

In the Central Administrative Tribunal, Ernakulam Bench

Case No : Original Application No.180, 00030 Of 2024

Biju Joseph & Ors

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 28-11-2025

Acts Referred:

Citation : (2025) 11 CAT CK 1785

Hon'ble Judges : K. Haripal, Member J;V.Rama Mathew, Member A

Bench : Division Bench

Advocate : T.C. Govindaswamy, Kala. T. Gopi, Kailesh. T. Gopi, Nishitha Balachandran, Sudhir Kumar. B, Sheela Devi

Final Decision : Dismissed

Judgement

V. Rama Mathew, Member A

1. Heard both sides in extenso. The factual matrix is as under – the applicants after completing a process of recruitment were initially appointed as Civilian Motor Drivers (Ordinary Grade) (Level – 2 of the Pay Matrix) with effect from 25.03.2013 whereas the private respondents 5 to 9 are persons who were appointed as such on various dates between 20.05.2013 to 30.05.2013. In this application the grievance of the applicants relate to unsettling of their seniority which remained settled for a period of nine years and that too without giving them an opportunity to show cause as to why the said settled seniority should not be unsettled. The concerned document is Annexure A-1 seniority list of Civilian Motor Vehicle Drivers Grade – II as on 01.11.2022 issued from the office of the 3rd respondent and Annexure A-2 letter No.CS2775/43 dated 25.06.2023 issued on behalf of the 3rd respondent.

2. It is argued that the private respondents are persons who were appointed later than the applicants on various dates. In the original seniority list the applicants were placed above the private respondents right from 2013 to 2021. However, in the promotion order dated 30.12.2021 the applicants are positioned

below the private respondents 5 to 9. A copy of the order is produced as Annexure A-4. It is submitted that after Annexure A-4 the 3rd respondent published a seniority list of Civilian Motor Drivers Grade – II as on 01.11.2022, as stated earlier, copy of which is produced as Annexure A-1. Further they were given to understand that the seniority list at Annexure A-1 was prepared not based on any seniority list published or communicated to them till it was revised as aforesaid against which they submitted representations. Their representations were forwarded to the 3rd respondent and the same was rejected by Annexure A-2 order dated 25.06.2023 stating that it was devoid of merit and substance. Para 2(b) & (c) of the same reads as follow -

"(b) On detailed examination of representations regarding discrepancy, it was revealed that an advertisement for Direct Recruitment for 22 vacancies of CMD(OG) were published in the Employment News dated 24 – 30 December 2011 and for another 8 vacancies in Employment News dated 03 – 09 March 2012. A combined recruitment examination for these vacancies was held on 29th & 30th May 2012 and result was published on 08.06.2012. Further, another advertisement for Direct Recruitment for 33 vacancies were published in Employment News dated 20 – 26 October, 2012 for which examination was held on 27th & 28th February 2013 and result published on 04.03.2013. However, 03 candidates from the former select list had not joined the post due to various reasons. Hence, pre-appointment formalities for another 03 candidates from the reserve select list were initiated in March, 2013. However, one of the candidate had given unwillingness to join the post and therefore yet another one from the reserve list was selected for appointment. Post completion of pre-appointment formalities, candidates viz., S/Shri.K.B.Vinod Kumar, S.Lenin and M.E.Sathyanesan from the reserve list were appointed with effect from 22.05.2013 and 30.05.2013 respectively. However, they were erroneously placed in the seniority list below the individuals appointed from the second select list, on the basis of their date of joining.

(c) As per DoP&T O.M.No.41019/18-97-Estt.(B) dated 13.06.2000 (copy enclosed) validity of reserve list is one year and therefore no revival of the reserve list of individuals concerned viz., S/Shri.K.B.Vinod Kumar, S.Lenin and M.E.Sathyanesan was required. Further, in accordance with DoP&T O.M.No.20011/1/2008-Estt.(D) dated 11.11.2010 (copy enclosed), the relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of subsequent selection. Further, in the said O.M it is also mentioned that the general principles on seniority envisages that the candidates appointed through an earlier selection stand senior to those appointed through a subsequent selection. Consequently, the above mentioned individuals who were selected from the earlier selection were to be placed above the candidates appointed from the subsequent selection. Hence, the discrepancy in the seniority list of CMD (OG) was rectified on receipt of requests from them

prior to conduct of DPC and promotions were issued accordingly to avoid litigations.”

3. The applicants also produced Civilian Establishment List No.61/2015 dated 10.12.2015 issued by the 3rd respondent, produced as Annexure A-8, confirming the applicants and the private respondents on various dates as stated in the communication. It is seen from the said list that the applicants were confirmed much earlier than private respondents 5 to 9. Therefore, unsettling the seniority that too without publishing the revised seniority, if any, is arbitrary, discriminatory and opposed to the principles of natural justice.

4. In the reply statement the respondents have clearly stated that as per the terms of DoP&T O.M dated 11.11.2010, produced as Annexure R-1, relative seniority of all direct recruits is determined by the order of merit in which they are selected after such appointment on the recommendations of the selecting authority and not on the basis of the date of appointment. Further, persons appointed as a result of an earlier selection will be senior to those appointed as a result of subsequent selection. The applicants in this O.A were selected through the notification of 20-26 October, 2012 result of which published on 04.03.2013 whereas the private respondents 5 to 9 were selected through the notification of 03-09 March, 2012 result of which published on 08.06.2012. It is submitted that the seniority of the candidates were erroneously fixed as per the date of appointment and not based on the merit list, which went unnoticed until the private respondents 7 and 8 submitted representations after circulation of Annexure A-3 seniority list. On detailed examination, when it was observed that the seniority of the candidates were fixed based on their date of appointment, and not on the basis of the date of recruitment. Hence, the seniority list was revised. This was done subsequent to the circulation of the draft seniority list in the year 2021. The discrepancy in the seniority list of CMD (OG) was to be rectified immediately, but revised seniority list could not be published as Departmental Promotion Committee was to be convened and promotions were to be issued with effect from 01.01.2022. The seniority list of 01.11.2022 is of the promoted cadre and not of the cadre in which the applicants were recruited. This is consequent to the rectification in the earlier seniority list.

5. The DoP&T O.M dated 04.11.1992, produced as Annexure R-2, very clearly and categorically states that the seniority of direct recruits is determined based neither on the date of appointment nor the date of confirmation, but on the merit list of recruitment. It is also the general principle of fixing of seniority that candidates appointed from an earlier select list would be senior to those selected from latter select list, even if they are appointed at later date. The Hon'ble Supreme Court in Civil Appeal No.2439/2010 in the case of H.S.Vankani & Ors. vs. State of Gujarat & Ors., has upheld the seniority of earlier batch over the candidates of the later batch. These facts have not been controverted by the applicants at any point.

6. Respectfully following the decision of the Hon'ble Supreme Court, it is held

that corrections of an illegality can be carried out at any point of time and the respondents' action in this case was legal and proper. The O.A is accordingly dismissed. No order as to costs.

(Dated this the 28th day of November, 2025)