

(1995) 05 SC CK 0023

In the Supreme Court Of India

Case No : Civil Appeal No. 5212 of 1995 (Arising out of SLP (C) No. 6298 of 1994)

D.K. Reddy and Another

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 02-05-1995

Acts Referred:

Citation : (1995) 4 JT 432 : (1995) 3 SCALE 469 : (1996) 10 SCC 177 : (1995) 2 UJ 494 : (1995) 2 UPLBEC 1315

Hon'ble Judges : S. B. Majmudar, J; J. S. Verma, J

Bench : Division Bench

Judgement

S.B. Majmudar, J.—Leave granted.

2. This appeal by special leave is against the order of Central Administrative Tribunal (CAT), Principal Bench, New Delhi dismissing Original Application No. 2937/91 filed by the appellants against Union of India and the concerned respondents working in the same department.

3. A few relevant facts leading to this appeal may now be noted. The two appellants were initially recruited to Class II Group "B" service of the Indian Defence Estates Service (IDES) in 1990 and 1968 respectively. They were promoted to the lower post of Group "A" of Class I as Junior Time Scale (JTS) Officers in 1973 and 1975. Thereafter they were promoted to the next higher posts of Senior Time Scale (STS) and Junior Administrative Grade (JAG) in June, 1982, and February, 1988 respectively by the Departmental Promotion Committee (DPC). Respondents 3 to 27 are direct recruits appointed to Group "A" Class I Junior Time Scale after the appellants were promoted to that cadre. These facts are undisputed.

4. The respondents 3 to 27 were treated as junior to appellant No. 1, while respondents 10 to 27 were treated as junior to appellants No. 2, on account of the fact that respondents 3 to 27 entered the service as direct recruits in Group

"A" Junior Time Scale on various dates between 9.8.1973 and 1.3.1975, while the appellants herein were promoted to Junior Time Scale of Group "A" on 19.1.1973 and 5.3.1975 respectively. The seniority list of 22nd July 1987 showed the concerned respondents as junior to the appellants but no grievance was then made to the inter se seniority in that Seniority list. The problem about re-fixation of inter-se seniority in Group "A" Junior Time Scale of direct recruits like respondents 3 to 27 and promotes like the appellants became acute on account of certain subsequent developments. There was another group of officers in Defence Service, namely, Group "B" Officer in Class II known as Assistant Defence Estate Officer (Technical) who were not considered to be in the Indian Defence Estate Service (IDES). They therefore filed application before the CAT for absorbing them in the IDES and also reckoning their continuous length of service as such. In short, against direct recruits in Group "B" Class II service like the appellants those latter group of officers claimed seniority and absorption. These latter group of officers were called Assistant Military Estates Officers (AMEOs) who were brought into Indian Defence Establishment Service (IDES) in 1976 long after their appointments as AMEOs. These AMEOs. contended before the Tribunal that once they are absorbed in the IDES in Group "B" service they should be treated at par with existing Group "B" IDES like the appellants and their inter-se seniority should be fixed keeping in view their continuous length of service prior to their induction into IDES. In those proceedings before the Tribunal the appellants were made parties, because reshuffling of seniority in Group "B" posts in IDES was likely to have adverse effects on the seniority of appellants in Group "B" posts to which they were directly recruited. It may be pertinent to recall that the appellants were directly recruited as Group "B" officers in IDES with effect from 15.3.1969 and 22.2.1968 respectively. As we have already noted earlier the concerned DPCs at relevant time considering the continuous officiation of appellants in Group "B" posts of IDES had already promoted them to Group "A" posts of Junior Time Scale from 19.1.1973 and 5.3.1975 respectively and they were subsequently promoted to the Senior Time Scale Group "A" on regular basis from 15.6.1982 and they were further promoted to Junior Administrative Grade in Group "A" posts on 22.2.1988.

5. The Tribunal in the application moved by AMEOs issued direction in their favour. These directions issued by the Tribunal have triggered off the present controversy. At this stage it may be noted that in those applications moved by AMEOs against appellants and other similarly situated direct recruits to Group "B" posts in IDES, the present respondents 3 to 27 were not parties. The controversy before the Tribunal in those earlier proceedings centered round the dispute of inter-se seniority only between direct recruits in Group "B" IDES posts like the appellants and the AMEOs who were absorbed in the cadre of Group "B" in IDES in 1976. There was, thus, no occasion for respondents 3 to 27 to ventilate any grievance before the Tribunal in those proceedings. The conclusion reached and directions issued by Tribunal in the earlier proceedings between AMEOs and direct recruits in Group "B" are contained in paras 46 and 47 of the

Tribunal's judgment as under:

46. In the light of the aforesaid observations, it would be in the interest of justice to direct the Respondents to prepare fresh seniority lists on the basis of length of service in each of the relevant grades of the service. Review DPCs will have to be convened afresh to consider the suitability of the officers, including the Applicants, for promotion to the various grades. If, as a result of such promotions, some persons who have already been promoted, are likely to be adversely affected, they should not be reverted and they should be accommodated by creating supernumerary posts.

47. We, therefore, order and direct as follows:

(a) Respondents No. 1 should prepare fresh seniority lists treating AMEOs also as members of the Service from the date of their respective appointment. Such appointments must be deemed to be in relaxation of the relevant recruitment rules.

(b) Review DPCs should be held afresh as of various years in which vacancies in the higher posts in Group "A" had arisen and regular appointments should be made on the basis of the recommendations of the Review DPCs.

(c) In case the Applicants are duly recommended by the Review DPCs for promotion, they will be entitled to consequential benefits, including arrears of pay and allowances admissible under the Rules.

(d) If in the process of such review and promotion held on the basis of such review, persons who have already been promoted are likely to be adversely affected, they should be accommodated by creating adequate number of supernumerary posts,

(e) The respondents should comply with the above directions within a period of six months from the date of communication of this order.

(f) ...

(g) ...

6. The Tribunal clearly took the view that AMEOs who were applicants before the Tribunal should be treated to be Members belonging to Group "B" cadre of posts in IDES and their inter-se seniority in that cadre should be fixed vis-a-vis the direct recruit Group "B" IDES officers like the appellants and in that light review should be made of the promotions already granted; and as a result of such re-fixation of seniority and review of promotions, if any of the direct recruits Group "B" like the appellants were to be adversely affected, i.e. were likely to be pushed down from the promoted posts in Group "A" on account of the senior AMEOs absorbed in Group "B" being found more suitable for promotion to Group "A" as compared to persons like the appellants who were already promoted to those posts, the latter should not be disturbed and suitable number of supernumerary posts be created to maintain the status quo ante regarding the

promotions of appellants and others in Group "A" prior to the exercise by the DPC pursuant to the direction issued by the Tribunal. It is also pertinent to note that the review DPC was to be held afresh as of various years in which vacancies in Group "A" had arisen and promotions to those existing vacancies in Group "A" posts had to be readjusted by the DPC.

7. The aforesaid judgment of the Tribunal was affirmed by this Court by its judgment dated 27th February, 1990 in the case of Union of India v. M.P. Singh and Anr. 1990 (Supp) SCC 701 . This Court observed in para 10 of the judgment that the Tribunal protected the interests of those who were working at present by directing that they should not be disturbed. That decision has become final.

8. It appears that the inter-se seniority of AMEOs absorbed in Group "B" posts and the direct recruits like the appellants in Group "B" was refixed, thereafter and the appellants were pushed down in seniority in Group "B" on the basis of longer length of continuous service of the concerned AMEOs. To recapitulate appellant No. 1 as a direct recruit was appointed to Group "B" post on 15.3.1969, while appellant No. 2 was appointed as direct recruit to Group "B" posts on 12.2.1968. Therefore all the AMEOs who had longer continuous officiation in the equivalent Group "B" posts from which they were absorbed in Group "B" of IDES, were treated as senior to the appellants. The appellants accepted this position. But their contention is that as a result of this re-fixation of inter-se seniority of AMEOs absorbed in Group "B" of IDES and the direct recruits therein like the appellants, further promotions already granted to the latter years back from 19.1.1973 to February, 1988 could not be adversely affected in view of the clear direction of the Tribunal in its judgment dated 30th November, 1988 affirmed by this Court in its judgment dated 27.2.1990. However, after the refixation of inter-se seniority in this manner in Group "B", the review DPC considered all the existing vacancies in Group "A" posts at a time and consequently not only the AMEOs who had filed the application before the Tribunal but even direct recruits like respondents 3 to 27 who had joined the Junior Time Scale, Group "A" posts on various dates between 9.8.1973 and 1.3.1982 later than the appellants were, included in the seniority list for Junior Time Scale Group "A" posts as on 15.6.82 and in that of Senior Time Scale Group "A" posts as on 22.2.88 and were shown senior to the appellants. According to the appellants for this exercise the direct recruits to Junior Time Scale posts of Group "A" like respondents 3-27 were not in the picture at all. Their inter-se seniority in Junior Time Scale, Group "A" posts vis-a-vis the appellants was already fixed in the past. That had become final. Still that was reshuffled and they were given the benefit of refixation of seniority pursuant to the aforesaid decision of the Tribunal which had to be implemented only for working out the inter-se seniority of direct recruits in Group "B" like the appellants and the AMEOs absorbed therein.

9. The appellants therefore moved original application no 2937/91 before CAT, Principal Bench, New Delhi. Their main grievance in the said application was that

their names were wrongly omitted from the list of promotees pursuant to the earlier decision of the Tribunal. That the respondents have also issued another list dated 22.8.1991 containing a revised panel of promotion from Group "A" Junior Time Scale to Group "A" Senior Time Scale on the basis of review DPC. The names of the appellants did not figure in the said list. According to them appellants No. 1 should have been above Shri Ved Prakash and appellant No. 2 above Shri P.S. Fatehullah. Consequently, the appellants claimed the following reliefs in the said application.

(a) In the list as per letter dated 15.1.1991 the names of the applicants be included and shown against supernumerary posts in compliance with CAT Judgment of 30.11.1988.

(b) In the list circulated on 22.10.1991 the name of applicants No. 1 be shown above Sh. Ved Prakash and that of application No. 2 be shown above Sh. P.S. Fatehullah and the decision of CAT be implemented accordingly.

10. The Tribunal after hearing the concerned parties took the view that the only effect of the direction of the Tribunal found in paras 46 and 47 of the earlier judgment was that on account of refixation of inter-se seniority of appellants on the one hand and AMEOs on the other in Group "B" posts and on consideration by Review Committee of their claim for future promotion to Group "A" posts if the concerned AMEOs had emerged successful and had to be promoted prior to the appellants to Group "A" posts and as a result thereof if the appellants had to be reverted from their existing posts then those reversion were not to be effected. That was the only result of the beneficial direction of the Tribunal in their favour meaning thereby that if as a result of the said exercise a need arose for the appellants to make room for the promote AMEOs in the cadre of Group "A" Junior Administrative Grade then the appellants were not to be reverted from their last held promotional posts. But except that they could not claim any seniority vis-a-vis directly recruited Group "A" officers in the Junior Time Scale posts like respondents 3 to 27. The promotions given to the appellants to Junior Time Scale Group "A" posts in 1973 and 1975 respectively, had to be treated to have been superceded by the fresh exercise of Departmental Promotion Committee held pursuant to the earlier judgment of the Tribunal. Accordingly the application of the appellants was dismissed. As noted earlier the appellants feeling aggrieved by the said decision of the Tribunal in O.A. No. 2937/91 are before us in the present proceedings.

11. We may now note the rival contentions.

12. It was contended on behalf of the appellants by the learned Counsel that the earlier proceedings before the Tribunal were only between AMEOs and the direct recruits in Group "B" of IDES like the appellants and, therefore, the decision therein has to be confined to the context of redressal grievance of the AMEOs alone on their absorption in the IDES in 1976. It was urged that while accepting the grievance of the AMEOs the Tribunal had safeguarded the interest of

appellants and other similarly recruited directly in Group "B" of IDES; and for that purpose necessary directions were given in the above quoted paras 46 and 47. According to the learned Counsel for appellants these directions gave the benefits to the appellants stated hereafter.

13. Even if the authorities concerned undertook a fresh exercise for fixing inter-se seniority of the direct recruits in Group "B" like the appellants and the AMEOs who were absorbed in the cadre, and accordingly also held a fresh review DPC for considering the question of promotion of these Group 4B" officers to the higher cadre of Group "A" posts, the appellants were not to be disturbed. Consequently, if any adverse effects ensued on account of the said exercise by the review DPC, protection was given to the direct recruits like the appellants by creation of supernumerary posts, if necessary, as a result of recommendations of review DPC; and that review DPC should be held for reviewing promotions to the number of vacancies in the Group "A" posts as and when they arose. In this connection, it was submitted that the term "supernumerary post" is a term of art, well recognised in service jurisprudence. A supernumerary post is a permanent post and Govt. of India's own instructions relating to creation of such posts occur under the definition of permanent posts given in fundamental rules 9(22) from which the following features would emerge:

- i) It is always a permanent posts,
- ii) It is created to accommodate the lien of an officer, who in the opinion of the authority competent to create such post, is entitled to hold a lien against a regular permanent post,
- iii) It is created due to non-availability of a regular permanent post. Such post is personal to the officer for whom it is created and stands abolished as soon as the officer for whom it was created vacates it.
- iv) It is a shadow post, in as much as no duties are attached to it and the officer concerned performs duties in some other vacant temporary or permanent posts.

14. It was further contended that as per the direction of the Tribunal confirmed by this Court in earlier proceedings the review DPC was required to be held for various higher posts and in each of the relevant grades of service. The review DPC was to consider the suitability only of the original applicants before the Tribunal, namely, AMEOs. That so far as the suitability for promotion of appellants and respondents 3 to 27 was concerned, it was already adjudicated long back in 1973 so far as appellants No. 1 is concerned and in 1975 so far as appellant No. 2 is concerned. They were already promoted to Group "A" Junior Time Scale much prior to the induction of respondents 3 to 27 as direct recruit incumbents on posts in Junior Time Scale of Group "A". That the review DPC was only held for one grade of service, namely, Junior Administrative Grade in Group "A" instead of holding review DPC for considering promotions of the concerned incumbents also in various lower grades of Group "A", namely, Junior Time Scale and Senior Time Scale. The review DPC was to be held for each of the relevant

grades of the services as directed by the Tribunal. The DPC had also arbitrarily shown the year 1974 as cut off line for considering vacancies. That in the impugned order dated 22.8.91 review DPC for promotion from Junior Time Scale to Senior Time Scale was held but it was confined on the basis of earlier order dated 15.1.91. It was further contended that the entire exercise undertaken by the concerned authorities was contrary to the guarantee held out by the earlier order of the Tribunal dated 30.11.88, that not only the concerned AMEOs got seniority over the appellants pursuant to the said order but even the direct recruit appellants 3 to 27 who joined the Junior Time Scale on various dates between 9.8.73 and 1.3.82 were all included in the impugned lists of 15.1.91 for Junior Time Scale and 22.8.91 for Senior Time Scale and they too have been made senior to the appellants. They had made no grievance about the promotions of the appellants, before any court or authority. And their inter-se seniority position was clearly settled by the seniority list of 22.7.87 which had become final. Learned Counsel for appellants therefore contended that by a wrong interpretation of the order of the Tribunal in the earlier proceedings, the appellants were deprived of 13 to 15 years of regular substantive service as Group "A" Junior Time Scale officers and respondents 3 to 27 who are junior to them on the basis of continuous officiation as Junior Time Scale officers in Group "A" were wrongly permitted to steal a march over the appellants. It was therefore submitted that the appellants were entitled to the reliefs as prayed for in their application before the Tribunal.

15. The respondent authorities as well the contesting respondents 3 to 27 on the other hand submitted that the appellants' seniority in Junior Time Scale of IDES Group "A" can be counted only from the date of their appointment to the service on the basis of the deliberations of review DPC in the light of the earlier judgment of the Tribunal. That the appellants were far junior to private respondents. The contention that year-wise vacancies were not considered is not correct. The review DPC considered the year-wise vacancies. When officers senior to appellants (as a sequel to be revision of seniority) occupy the sanctioned strength, the appellants cannot be taken as part of the sanctioned strength. The review DPC held in 1993 considered year-wise vacancies and accordingly recommended a panel for promotion as per the revised zone of consideration based on revised seniority of Group "B". That the only protection given by the order dated 30.1.88 was that if as result of such promotions some persons who had already been promoted are likely to be adversely affected they should not be reverted and they should be accommodated by creating supernumerary posts. Respondents 1 & 2 followed the directions and issued letters dated 15.1.91 and 22.8.91 consequent on the promotions made to Junior Time Scale and Senior Time Scale Group "A". That the appellants have not been reverted from Junior Administrative Grade posts they were holding but retained in supernumerary posts. The promotions made earlier to the Junior Time Scale of Group "A" or to the Senior Time Scale and to Junior Administrative Grade were irrelevant in the light of the review DPC which was done as directed by the

Tribunal earlier. That as a result of review DPC in November, 1990 the appellants could not come within the zone of consideration for promotion to Class I. Their present position is not touched as supernumerary posts are created in connection with the posts they are holding. The supernumerary posts cannot be created at each and every level. The appellants promotion to Senior Time Scale in Group "A" from 1982 and their further promotion to Junior Administrative Grade in 1988 had no relevance as in the review DPC held in 1990, the appellants came down in the zone of consideration because AMEOs have been given seniority in Class II grade from the date of their respective appointments. According to the respondents therefore the appellants had not case and the Tribunal rightly rejected their application.

16. Having given our anxious consideration to these revival contentions we have reached the conclusion that respondent authorities had misunderstood and misapplied the directions contained in the earlier order of the Tribunal as found in paras 46 & 47 of its decision dated 30.11.88 which was confirmed by this Court as noted earlier. In retrospect it emerges that initially there was a bi-part dispute between appellants as directly recruited Group "B" officers on the one hand and AMEOs who were absorbed in Group "B" service from 19.1.76 on the other. It was this bi-part dispute which was resolved by its order dated 30.11.88 and which was finally redressed by this Court by its decision dated 27.2.90. Pursuant to file said decision a fresh exercise was to be undertaken by the review DPC after inter-se seniority in Group-"B" was refixed between the then warring groups, namely, direct recruit Group "B" officers like appellants on the one hand and AMEOs absorbed Group "B" officers on the other. It is easy to visualise that on account of that refixation of inter-se seniority of Group "B" officers if the appellants had to be pushed down in seniority in Group "B" cadre because of the higher ranking of AMEOs in that cadre on account of longer continuous officiation in defence service, a question would arise as to whether for the promotion to the then existing vacancies in next higher posts in Group "A" Junior Time Scale, the appellants could have been promoted on 19.1.73 and 5.3.75 or their seniors like the AMEOs who at the relevant time were not in picture but retrospectively emerged as senior in Group "B" posts pursuant to refixation of inter-se seniority in the light of the Tribunal's earlier decision. And if as a result of that exercise the review DPC found that instead of appellant No. 1 being promoted to the Junior Time Scale of Group "A" any other senior should have been so promoted, namely the concerned AMEO who was subsequently found to be senior on account of refixation of inter-se seniority, then the then available promotional vacancy in 1973 would go to concerned senior AMEO in Group "B" and a question would consequently arise whether appellant No. 1 should be treated to have been wrongly promoted to the lowest time scale post in Group "A", namely, Junior Time Scale. This would adversely affect appellant No. 1. And if that was so found and a need arose for appellants no. 1 to be pushed down to Group "B" post, because of non-availability of other vacant post in that cadre, then at that stage the question of creating a supernumerary post to retain appellant No. 1 in

the promoted posts of Junior Time Scale Group "A" on 19.1.73 would squarely arise. Similarly, such an exercise had to be undertaken for deciding whether further promotion of appellant No. 1 to the higher level of Group "A" posts, namely, Senior Time Scale in 1982 was justified and if it was found that on 15.2.82 the available vacancy should have gone to the really senior AMEO instead of appellant No. 1, then the appellant No. 1 had to be treated to be fitted against a supernumerary post in Senior Time Scale at the stage. Same principle and procedure would apply for considering the claim of appellant No. 1 for being retained on the promotional post in Junior Administrative Grade in Group "A". For appellants No. 2 also similar exercise had to be undertaken by the review DPC and the concerned respondent authorities. Thus, creation of supernumerary posts at all levels of promotional avenues in Group "A" posts, to serve as cushion to absorb and neutralise the adverse effects on past promotions of appellants to such posts was clearly contemplated by the directions of the Tribunal in its earlier decision which was confirmed by this Court. Thus, the review DPC had to consider the question or regularisation of vacancies retrospectively at all the levels of Group "A" posts in the light of re fixation of inter-se seniority of AMEOs and directly recruited Group "B" officers like appellants pursuant to the aforesaid decision. This exercise is clearly enjoined by the directions in paragraphs 46 and 47 of that decision. The directions contained in para 47 especially directions (b) & (d) will have to be read in the light of the general directions in para 46 as aforesaid. Direction (b) in para 47 in terms lays down that the review DPCs should be held afresh as of various years in which vacancies in the higher posts in Group "A" had arisen and regular appointments should be made on the basis of the recommendations of the review DPCs. Thus even though the review DPC might have been held at a time, the review DPC was enjoined to reconsider the promotion to vacancies that had arisen in various grades of Group "A" posts, namely Junior Time Scale, Senior Time Scale and Junior Administrative Grade. In that light direction (d) in para 47 has also to be visualised. It has been in terms clearly laid down that if in the process of such review of promotions, persons who have already been promoted were likely to be adversely affected they should be accommodated by creating adequate number of supernumerary posts.

17. As a result of such an exercise, if need arose appellant No. 1 could be treated to have been holding supernumerary post in Junior Time Scale Grade of Group "A" posts and in all other promotional cadres. He cannot be treated to be outside the sanctioned strength of posts in Junior Time Scale grade of Group "A" or other promotional posts as contended by learned Counsel for respondents. Otherwise, the very creation of supernumerary posts would become otiose and meaningless. Therefore, appellant No. 1 on account of being displaced in the promotional posts of Junior Time Scale Group "A" on account of the decision of review DPC by a more meritorious senior AMEO still had to be retained as promote to Junior Time Scale in Group "A" from 19.1.73 either as a regular promote in Junior Time Scale if there was additional vacancy available and if not then in a supernumerary post in the grade of Junior Time Scale. In either case, he would still be treated to be

belonging to the promotional cadre of Junior Time Scale Group "A" from 19.1.73. Same is the case with appellant No. 2. Similarly, at the stage of reconsidering the promotions to still higher grade posts in Senior Time Scale and Junior Administrative Grade in Group "A" the same exercise had to be undertaken afresh by the DPC. The net result of these exercise would be that even though the appellants may get superceded by promotee AMEOs who might emerge as senior to them in the lower cadre of Group "B" onwards, their actual officiation in promoted grades of Group "A" cadre posts as Junior Time Scale or Senior Time Scale or Junior Administrative Grade would not get vitiated or adversely affected thereby. Thus necessary supernumerary posts had to be created all along the line for Junior Time Scale Group "A" Senior Time Scale Group "A" and Junior Administrative Grade Group "A" posts and not only at the last promotion of Junior Administrative Grade Group "A", as wrongly assumed by the respondents. That was the guarantee held out to them by the directions of the Tribunal contained in paras 46 and 47 of its judgment dated 30.11.88. It is pertinent to note that so far as directly recruited employees in Junior Time Scale which is the lowest cadre to Group "A" posts like respondents 3 to 27 are concerned they were nowhere in the picture in this fresh exercise to be undertaken pursuant to the bi-part decision of the Tribunal dated 30.11.88 wherein only the reshuffling of seniority in Group "B" and readjustment of promotion in the higher posts of Group "A" were to be done inter-se the appellants on the one hand and AMEOs on the other. So far as the appellants on the one hand and directly recruited Junior Time Scale Group "A" employees like respondents 3 to 27 are concerned their inter-se seniority in the Junior Time Scale grade was already fixed by the seniority list dated 22.7.87 and they had not challenged that fixation of inter-se seniority anywhere. Thus, the appellants on the basis of their continuous officiation in the promoted post of Junior Time Scale on regular basis from 19.1.73 had to be treated as senior to direct recruit Junior Time Scale employees like respondents 3 to 27 as shown in the seniority list of 22.7.87. All that happened pursuant to the decision of the Tribunal dated 30.11.88 was that as a result of the relevant exercise undertaken by the authorities, AMEOs might emerge senior to the appellants not only in Group "B" posts but might become senior to appellants even in promotional Group "A" posts. The appellants can be pushed down only by these promotee AMEOs in respective grades of Group "A" posts, namely. Junior Time Scale, Senior time Scale and Junior Administrative Grade but nothing more. In any case directly recruited Junior Time Scale employees like respondents 3 to 27 had to be treated as junior to the appellants in the Junior Time Scale posts and consequently then cannot stake their claim for stealing a march over the appellants in the further promotional cadres, namely, Senior Time Scale and Junior Administrative Grade. In short, correct inter-se seniority of the concerned employees will project the following picture.

(i) Prior to readjustment of inter-se seniority of the appellants and AMEOs as per Tribunal's decision, appellant No. 1 will be senior to respondents 3 to 27 and appellant No. 2 will be senior to respondents 10 to 27 as per continuous

officiation in the concerned posts,

(ii) After readjustment of such inter-se seniority of appellants on the one hand and AMEOs on the other in the lower cadre of Group "B" posts, the inter-se seniority of the concerned employees will have to be fixed as under:

(a) Inter-se seniority in Group "A" Junior Time Scale, senior AMEOs held entitled to be promoted in preference to the concerned appellants will rank senior to them.

(b) In the next place appellant No. 1 will have to be shown as senior to respondents 3 to 27.

(c) Thereafter, appellant No. 2 will be shown as senior to respondents 10 to 27. In short, respondents in no case can be shown to be senior to the appellants, (iii) Seniority in Group A" Senior Time Scale posts, same position of inter-se seniority of the appellants and respondents 3 to 27 as in Junior Time Scale.

(iv) Same position regarding inter-se seniority in Junior Administrative Grade Group "A" regarding inter-se seniority of appellants and respondents 3 to 27.

18. In short, after complying with the directions of the Tribunal contained in paragraphs 46 and 47 of the earlier decision the only effect on the readjustment of inter-se seniority of the appellants in promotional Group "A" posts would be that they may, if required, be pushed down in seniority by the concerned AMEO found fit to be promoted to these posts prior to the appellants. But that will have no effect on the inter-se seniority of appellants vis-a-vis respondents 3 to 27 which would remain, as it was according to seniority list on 22nd July, 1987 which had become final between them.

19. As a result of this discussion, it is obvious that the Tribunal had patently erred in dismissing the appellants' application and had failed to exercise its jurisdiction. The appeal is, therefore, allowed. The decision of the Tribunal is quashed and set aside. The appellants' application being O.A. No. 2937/91 will stand allowed and both the reliefs as prayed for therein will stand granted. In the facts and circumstances of the case, there will be no order as to costs.