
(2013) 10 DEL CK 0447
In the Delhi High Court
Case No : Writ Petition (C) 6282 of 2001

D.N. Bhargava

APPELLANT

Vs

UOI and Others

RESPONDENT

Date of Decision : 23-10-2013

Acts Referred:

Army Act, 1950 — Section 102(4), 191, 21, 3(xi), 4
Constitution of India, 1950 — Article 14, 16, 33

Citation : (2013) 10 DEL CK 0447

Hon'ble Judges : V. Kameswar Rao, J;Pradeep Nandrajog, J

Bench : Division Bench

Advocate : A.P. Dhamija, for the Appellant;

Final Decision : Dismissed

Judgement

V. Kameswar Rao, J.—The petitioner impugns order dated December 22, 2000 passed by the Central Administrative Tribunal, Principal Bench in Original Application No. 96/1998 whereby the Original Application was dismissed. The question which falls for our consideration is whether Rule 6(1) of the Released Emergency Commissioned Officers and Short Commissioned Officers (Engineering and Medical) service reservation of vacancies (2) Rules, 1971 (hereinafter referred to as "the Rules") is arbitrary and discriminatory and the petitioner is entitled to count the service rendered in the GREF, under BRO, for the purpose of seniority in Central Engineering Service (CPWD). The facts necessary for deciding the aforesaid issue are that pursuant to obtaining a Degree in Civil Engineering the petitioner joined the Indian Army as an Emergency Commissioned Officer on April 29, 1963. The petitioner remained as an Emergency Commissioned Officer till October 13, 1963 which was subsequently converted into Short Service Commissioned Officer with effect from the said date.

2. On August 06, 1963 a circular was issued by the Government regarding reservation of vacancies in the Engineering and Medical Services/posts class I

and II under the Government of India.

3. On December 06, 1970 the petitioner was released from the Army after completing the service as Commissioned Officer. On December 07, 1970 the petitioner joined General Reserve Engineering Force (hereinafter referred as "GREF") in the Border Road Organization on the post of Executive Engineer.

4. On April 19, 1971 the UPSC notified vacancies of Central Engineering Service for which the petitioner also applied. On November 25, 1971 the Government of India issued notification framing Rules regulating the reservation of vacancies in Engineering and Medical Services and posts class I and II for the Released Emergency Commissioned Officers and Short Service Commissioned Officers of the Armed Forces. The Rule 6(1) of the Rules dated November 25, 1971 reads as under:-

Pay of the released Emergency Commissioned Officer or Short Service Commissioned Officer appointed against a reserved vacancy shall be fixed on the assumption that he would have been appointed to the Service or post, as the case may be, on the date arrived at after giving credit for his approved military service as Emergency Commissioned Officer or Short Service Commissioned Officer, as the case may be, including the period of training, if any, and for the purpose of seniority he shall be deemed to have been allotted to the corresponding year;

5. After being released from the GREF the petitioner joined CPWD on October 03, 1972. We may only note here that the petitioner was appointed in the Central Engineering Service (CPWD) as Assistant Executive Engineer on April 24, 1972. The seniority of the petitioner was fixed at the bottom of 1963 examination of direct recruitment of Engineers in CPWD taking his assumed date of appointment as 1963 below one Mr. C.V. Nair, who appear in the examination of 1963 and joined on selection in the year 1965.

6. The petitioner was promoted as Executive Engineer with effect from January 11, 1969. On August 22, 1978 the respondent No. 1 revised the seniority of the petitioner placing him below one Mr. S.K. Khanna of 1964 batch who joined in 1965. The petitioner on December 13, 1978 filed a writ petition before the High Court of Punjab and Haryana WP(C) No. 2854/1978 challenging the order dated August 22, 1978. The said writ petition was allowed and the order dated August 22, 1978 was quashed calling upon the respondents to fix the seniority of the petitioner after giving him due opportunity of being heard. In deference to the orders of High Court of Punjab and Haryana an opportunity was given to the petitioner who filed his representation against the seniority. The respondents vide order dated July 23, 1979 treated the seniority list as to be final.

7. During 1979-1980 the petitioner challenged the seniority list of January 31, 1979 as well as the order dated July 23, 1979 by way of another writ petition in the High Court. The writ petition was transferred to the Central Administrative Tribunal and was renumbered as T.A. No. 612/1986. Vide its order dated May 07,

1987 the petitioner allowed the writ petition and quashed the seniority list of January 31, 1979 and directed that the entire exercise be re-done within six months.

8. We note here that vide order dated July 12, 1988 it was decided by the Respondents to treat the period of service put in by the petitioner in GREF as qualifying service for the purpose of pension and pensionary benefits. On November 13, 1990 the petitioner was informed by the respondents that the seniority list dated January 31, 1979 is being treated as final. This prompted the petitioner to file yet another Original Application No. 2567/1990 challenging the communication dated November 30, 1990 before the Tribunal. The Original Application filed by the petitioner and two others was disposed of by the Tribunal vide its order dated December 23, 1993 wherein in para 23 the Tribunal concludes as under:-

In the circumstances, we hold that the released Emergency Commissioned Officers/Short Service Commissioned Officers should be first assigned the deemed year of allotment by giving credit for approved military service in relation to their actual dates of joining and for the interpolation of seniority vis-à-vis direct recruits, these candidates (released Emergency Commissioned Officers/Short Service Commissioned Officers) should be placed below all the direct recruits who are appointed as a result of the open competition, i.e., (Examination) held in the deemed allotment year.

9. Suffice it to state here that the Tribunal interpreted the seniority rules issued in terms of notification dated November 25, 1971. On October 20, 1994 the respondent No. 1 issued a fresh seniority list wherein the petitioner was assigned seniority as on January 05, 1981 below the person who was of the batch of 1964 and joined in 1965.

10. Aggrieved by the seniority list of October 20, 1994 the petitioner filed another Original Application before the Lucknow Bench of the Tribunal, which was numbered as 481/1995. The said Original Application was transferred to the Principal Bench and was renumbered as Original Application No. 1961/1998. In this Original Application the petitioner had prayed for two reliefs. The same are reproduced as under:-

(1) It is most respectfully prayed that the Hon"ble Tribunal be pleased to quash Rule 6 of Released Emergency Commissioned Officer and Short Services Commissioned Officer (Engineering and Medical) Service Reservation of vacancies (No. 2) Rules 1971 contained in Annexure-2 with a direction to the opposite parties to give same treatment to the applicant which has been given to short service commissioned officer/Emergency Commissioned officers who joined Indian Administrative Service. Indian Police Service Indian Forest Service etc. on their release from Indian Army in the matter of fixation of their seniority.

(2) The opposite parties may also be directed not to distinguish and discriminate the case of the applicant with those who joined the aforesaid service in the

matter of fixation of pay and seniority and in any case the opposite parties may be commanded to include the service rendered by the applicant in the Border Roads Organization while computing his service in the Central Public Works, the Impugned seniority list dated 20.10.1994 contained in annexure-1 may accordingly be quashed and the applicant may be held entitled in the absence of the impugned seniority list.

11. Vide its order dated December 22, 2000 which is impugned herein, the Tribunal has upheld the vires of Rule 6(1) of the Rules.

12. Against the impugned order dated December 22, 2000 the petitioner approached the Supreme Court by filing an SLP in which notice was issued and pleadings were completed.

13. When the SLP was listed on September 24, 2001 the Supreme Court granted liberty to the petitioner to approach this Court. Accordingly the petitioner has filed the present writ petition impugning the order dated December 22, 2000 and seeking relief which has already been reflected above. In so far as the vires of Rule 6 is concerned the Tribunal has held as under:-

On consideration of the entire OA we find that the applicant is basically aggrieved of the fact that he should have been given the benefit of the missed opportunities as is being given to Released Army Emergency Commissioned Officers/Short Commissioned Officers who joined the All India Services such as IAS, IPS etc. and since Rule 6 which is being challenged by the applicant does not provide for giving the benefit of missed opportunities, so to that extent the counsel for the applicant has submitted that Rule 6 is liable to be quashed on that score since it makes a discrimination between those who joined IAS, IPS etc. But to our view, this contention of the learned counsel for the applicant has no merits because each service is to be governed by the Recruitment Rules framed for the service itself. A member of a Central Engineering Service cannot compare his service condition with the service conditions of the IAs, IPS etc. since this was the only ground to challenge the validity of Rule 6 vide which the seniority of the applicant is governed, we find that there is no discrimination and on this ground Rule 6 cannot be said to be ultra vires of the constitution of India violating Article 14 and 16 of the Constitution of India and as such Rule 6 cannot be quashed.

9. The next ground taken by the applicant is that he should have been given the benefit of the service rendered by him in the Border Roads Organization, which is also a para-military organization. To support his case, he has referred to a judgment of the Kerala High Court wherein similarly situated person who had worked in GREE. Who after the emergency had been appointed to the PHed of Kerala State was not being given three advance increments, on the ground that service rendered by the personnel in GREF is not active military service and that period was not being counted. But in that case the record shows that the Army Act had been made applicable to the GREF personnel also and the Hon"ble Kerala

High Court on the basis of the admission of Union of India had allowed the Writ Petition. However, this case it is categorically stated by the respondents that the extension of benefit of Army Service has not been extended to the Border Roads Organization and the rules do not permit to give credit for the purpose of seniority to the service rendered by the applicant in the Border Roads Organization. So on this score we find that the judgment given by the Kerala High Court is not applicable to the facts of the present case because in this case the seniority has to be determined only in accordance with the Rule 6 of the Rule called the Released Emergency Commissioned Officers and Short Commissioned Officers (Engineering and Medical Services) Reservation of Vacancies (No. 11) Rules, 1971. The virus of this Rule 6 has been challenged by the applicant in this O.A. and we had already observed above that the grounds on which the applicant has challenged the virus of Rule 6 are not tenable and Rule 6 cannot be quashed on the grounds taken in the OA and this very rule do not permit, for the purpose of determination of seniority, the counting of the service rendered in Border Roads Organization. Hence, we cannot allow OA and direct the respondents for counting of the service rendered by the applicant in the Border Roads Organization, for determining the seniority of the applicant.

14. We have heard Mr. A.P. Dhamija, Advocate and perused the synopsis incorporating the list of dates, the questions of law and the submissions. His foremost submission being that the service put in by the petitioner in GREF could not be overlooked for the purpose of counting service in the Army. He relied upon the judgment of the Supreme Court reported as R. Viswan and Others Vs. Union of India (UOI) and Others, He would further submit that if GREF service is counted then the issue of seniority would be governed by the circulars dated August 06, 1963, February 15, 1965 September 05, 1961 and September 23, 1968. The third submission being that once the seniority list dated January 31, 1979 having been quashed by the Tribunal on May 07, 1987 by the Tribunal in T.A. No. 612/1986 the respondents were not right in again imposing the said seniority list without considering the observation of the Central Administrative Tribunal.

15. We note that no one appeared for the respondents before the Tribunal. Even before us no one has appeared for the respondents. We see a counter affidavit has been filed by the respondents. We decipher the stand of the respondents from the counter affidavit. The stand of the respondents in so far as the seniority position is concerned is as under:-

3. The Petitioner's deemed date of appointment in CPWD with reference to his actual date of joining was determined w.e.f. 25.2.65, after giving credit for his approved military service as ECOs/SSCOs including the period of training and for the purpose of seniority he was deemed to have been allotted to the year 1965 the "Corresponding year". However, in 1973, the matter of fixation of his seniority was examined in consultation with M/s. Home Affairs and his deemed year of allotment on the basis of army service was taken as 1963. Keeping in

view the fact that, in case, the petitioner had not joined the Army he would have appeared in the Combined Engineering Service Examination, 1963, it was decided that his seniority be fixed below the last successful candidate of Engineering Services Examination 1963 who had joined CPWD in 1965. Accordingly, a seniority list of AEEs including the name of the petitioner was issued on 13.8.73, which showed him immediately below Shri C.V. Nair (who was the last candidate appointed in CPWD on the basis of 1963 Exam) and mentioned his position in the list at S. No. 40-A.

4. Subsequently in 1976, it was noticed that there was an apparent error in deciding the petitioner's year of allotment as 1963 and fixing his seniority on that basis as mentioned above, because that decision was not based on the relevant facts and the 1971, Rules notified on 25.11.71 which were the only rules applicable to regulate the seniority and pay of the released ECOs/SSCOs appointed against reserved vacancies in Engineering or Medical Services. The matter regarding fixation of seniority of the petitioner in the grade of AEE was therefore re-examined by the Government in consultation with the UPSC and it was decided that his deemed date of appointment as AEE would be 25.2.65, his year of allotment would be 1965 and that he would be placed below all the direct recruits who had been appointed in CPWD on the results of the CES Examination held in the preceding year, i.e., in 1964. Accordingly, his seniority in the grade of AEE (Civil) was refixed and he was placed below Shri S.K. Khanna the last officer of CES, 1964 Exam who had joined in 1965, vide office order dated 22.8.78.

16. From the facts and contentions on behalf of the petitioner, we note that the petitioner had worked in the Army as a Short Service Commissioned Officer from April 29, 1963 to December 06, 1970, a period of slightly more than 7 years. On December 07, 1970 he joined GREF under Border Road Organization on the post of Executive Engineer where he worked till September 30, 1972. We may only note here that there is no averment in the petition before the Tribunal nor in the writ petition wherein the petitioner had stated that the service in GREF was also a Short Service Commission. It is also necessary to point out that no Rule/Regulation has been shown to us that for the purpose of counting service in CPWD the service in GREF for the purpose of seniority shall be taken into consideration. Reliance was placed on the judgment of the Supreme Court in the case of R. Viswan and Others Vs. Union of India (UOI) and Others, . In the R. Viswan's case (supra) the Supreme Court was concerned with two notifications dated September 23, 1960 issued by the Government of India one under sub-sections (1) and (4) of Section 4 of the Army Act making various provisions of the Act including Section 21 applicable and the second one u/s 21, 102(4) and 191 of the Army Act making various provisions of the Army Rules including Rules 19 to 21 applicable to the members of GREF. The contention on behalf of the petitioner was that Section 21 of the Army Act was unconstitutional and void so also Rules 19 to 21 of the Army Rules since under Article 33 of the Constitution of India, Parliament could not leave it to the Central Government to determine the extent of restrictions or abrogation of the Fundamental Rights. The other

contention was that GREF was not a force raised and maintained under the Authority of the Central Government and the notifications issued by the Govt. of India were ultra virus to the powers of the Central Govt. The petitioners also urged that in any event the application of Section 21 of the Army Act read with Rules 19 to 21 of the Army Rules to members of GREF was unconstitutional since the members of the GREF were not members of the Armed Forces or the Forces charged with maintenance of public order within the meaning of Article 33 of the Constitution of India. The Supreme Court has inter alia held that GREF is a force organized on Army pattern with units and sub-units which reads as under:-

The GREF is a Force organised on Army pattern with units and sub units and rank structure, and raised and maintained under the authority of the Central Government. The Central Government therefore had power under sub-sections 91) and (4) of Section 4 to issue SRO No. 329 applying some of the provisions of the Army Act, 1950 to GREF and directing by what of the provisions of the Army Act, 1950 to GREF and directing by what authority the jurisdiction, powers and duties incident to the operation of those provisions shall be exercised or performed in respect of GREF. (Para 8)

The history, composition, administration, organization and role of GREF clearly show that GREF is an integral part of the Armed Forces and the members of GREF can legitimately be said to be members of the Armed Forces within the meaning of Article 33. (Para 9 and 10)

The mere fact that the members of the GREF are described as civilian employees and they have their own special rules of recruitment and are governed by the Central Civil Services (Classification, Control and Appeal) Rules, 1965 is not determinative of the question whether they are members of the Armed Forces. It is also immaterial if their terms and conditions are comparable with those in the regular Army. (Para 10 and 11)

Thus the members of GREF answer the description of "members of the Armed Forces" within the meaning of Article 33 and consequently the application of Section 21 of the Army Act to the members of GREF must be held to be protected by that Article and the Fundamental Rights of the members of GREF must be held to be validly restricted by Section 21 of the Act read with Rules 19 to 21 of the Army Rules. So, the petitioners were liable to be charged u/s 63 of the Army Act for the alleged violations of Rules 19 to 21 and their convictions by Court Martial as also subsequent dismissals must be held to be valid. (Para 10).

17. A reading of judgment in R. Viswan's case (supra) it is clear that the Supreme Court has held that the members of the GREF can be said to be members of Armed Forces within the meaning of Article 33 of the Constitution of India which stipulates that the Parliament by law may determine the extent to which any of the Fundamental Rights in their application to members of the Armed Forces and the Forces charged with maintenance of public order may be restricted or abrogated so as to ensure the proper discharge of their duties and

the maintenance of discipline among them. The notifications in question issued by the Govt. of India was for making applicable some of the provisions of the Army Act and the Rules to the members of the GREF. The conclusion of the Supreme Court in R. Viswan's case (supra) must be construed to mean that the members of GREF answer the description of the members of the Armed Forces within the meaning of Article 33 of the Constitution of India only.

18. By this analogy it cannot be construed that the service rendered by the petitioner in GREF is an Army service as sought to be contended by Mr. Dhamija.

19. Even otherwise, the Rule is specific confined to Short Service Commissioned Officer or Emergency Commissioned Officer. It is not the case of the petitioner even his appointment in GREF was a Short Service Commission/Emergency Service Commission. The Short Service Commission/Emergency Service Commission is peculiar to the Army so as to attract, during Chinese aggression in 1962, good engineers and doctors. The underlying object of the Rule 6(1) was to give benefit to the young officers in technical fields like doctors and engineers by protecting their interest and when they subsequently come out of the Army to join civil services they would be given credit of the approved military service as Emergency Commissioned Officer/Short Service Commissioned Officer for the purpose of seniority. In fact, the appointment of the petitioner in GREF was after the petitioner completed his Short Service Commission in Army. This issue is no more res integra having been settled by the Supreme Court in the case reported as Sukhdev Singh Gill Vs. State of Punjab and Others, which reads as under:-

14. In fact, there is a notification dated 14-8-1985 which forms part of the paper book before us issued by the Government of India being No. F. 81(1)/64-Estt. 70463/DGER which states that in view of the judgment in R. Viswan v. Union of India the President of India is pleased to declare General Reserve Engineer Force to be an integral part of the armed forces of India.

15. Relying on the above said judgment and the order issued by the Government of India dated 14-8-1985 and Section 4(1) of the Army Act, 1950, learned Senior Counsel for the appellant contended that GREF was a Force falling within the connotation of Armed Forces under Article 33 of the Constitution of India and that is why Section 4(1) of the Army Act was made applicable to the GREF and if that was the position of law, the appellant was entitled to claim that his past service fell within the definition of "military service" under Rule 2 of the Punjab Government National Emergency (Concession) Rules, 1965.

16. There cannot be any difficulty, in view of the judgment of this Court in the above case and the subsequent notification dated 14-8-1985 issued by the Government of India, that the appellant's service in GREF could be treated as service in the "armed forces" for purposes of Article 33 of the Constitution of India. But the question is whether that is sufficient for the purpose of attracting Rule 2 of the abovesaid 1965 Punjab Rules dated 21-7-1965.

17. We have already extracted the above Rule and it would be noticed that the

military service which would be counted as service must be service as an "enrolled" or "commissioned" officer in the "three wings" of the Indian Armed Forces (including the service as warrant officer) That is what Rule 2 of the Punjab Rules of 1965 requires.

18. It appears to us that the words, "three wings" used in Rule 2 of the above said Rules has to be understood in the light of Section 3(xi) of the Army Act, 1950 which defines, the word, "the Forces " as the regular Forces, namely, the Army, Navy and Air Force or any part of any one or more of them. The Punjab Rules permitting computation of "military service" therefore, appear to us to restrict the benefit of military service only to those Officers who are enrolled or commissioned in the three principal wings of the Armed Forces, namely, Army, Navy and Air Force and it was not intended to extend to any other Armed Force to which the provisions of the Indian Army Act are extended u/s 4(1) of the Army Act, 1950.

20. The petitioner has placed reliance on the judgment of the Kerala High Court in the case of V. Raghvan Nair Junior Engineer v. State of Kerala O.P. No. 4924/1969. The Tribunal in the impugned order has distinguished the judgment in V. Raghvan Nair's case (supra) and the case in hand. The reasoning is very sketchy. In V. Raghvan Nair's case (supra) it is noted that during Chinese aggression the State Government offered to make available the service of 150 engineers for military service and issued an order GOP 169/63 dated March 08, 1963. In order to attract engineers the State Government offered certain concessions which included 1 year active military service will be counted as 2 years in the State service for the purpose of increment of pay in the State service and for accumulation of leave under the State service regulations. Mr. V. Raghvan Nair joined GREF on deputation for 3 years. After that he was reverted back to the State service. Mr. V. Raghvan Nair was given 3 advance increments which were sought to be withdrawn. One of the contentions was that the service in GREF is an active service or not. The High Court allowed the writ petition by holding the GREF service as an active military service on the ground that GREF personnel are governed by the Army Act.

21. We need not dilate much on the correctness of the conclusion of the High Court in view of the pronouncement of the Supreme Court in the case of Sukhdev Singh Gill's case (supra), wherein the Supreme Court interpreting the Punjab Rules permitting computation of "Military Service" to mean who are enrolled or commissioned in the 3 principle wings of the armed forces namely Army, Navy and Air Force and it was not intended to extend to any other armed force to which provisions of Indian Army Act are extended u/s 4(1) of the Army Act, 1950.

22. That in the case in hand Rule 6(1) of the Rules also talks about giving credit of approved military service as Emergency Commissioned Officer or Short Service Commissioned Officer. The interpretation given to the word "Military Service" by the Supreme Court in Sukhdev Singh Gill's case (supra) must also

apply to the word "Military Service" in this case also.

23. So from any perspective the service put in by the petitioner in GREF cannot be counted as service in Army for the purpose of seniority in Central Engineering Service (CPWD).

24. In view of our aforesaid conclusion, the circulars dated August 06, 1963, February 15, 1965, September 05, 1961 and September 23, 1968 have no application. It is the notification dated November 25, 1971 which would govern the seniority of the petitioner in Central Engineering Service (CPWD) in which the petitioner was appointed on April 24, 1972 and joined on October 03, 1972 after he was released from GREF, as admittedly those dates are subsequent to November 25, 1971.

25. The plea of discrimination is premised on the fact that the benefit of "missed opportunities" as was given to Emergency Commissioned Officers/Short Service Commissioned Officers who joined All India Services such as IAS, IPS etc. and since Rule 6(1) of the Rules does not provide for giving benefit of giving missed opportunities to that extent Rule 6 is liable to be quashed. The Tribunal rejected the contention by holding that there is no arbitrariness in the Rule because each service is to be governed by the Recruitment Rules framed for the service itself and the Member of Central Engineering Service cannot compare his service conditions with the service conditions of IAS. Rule 6(1) of the Rules postulates giving credit for the "approved military service" as Emergency Commissioned Officer or Short Service Commissioned Officer. It is not a case where no credit was given to the military service. Manner of giving credit of military service may vary from service to service. Merely because for IAS/IPS the benefit was being given for "missed opportunities" and for Central Engineering Service (CPWD) it is "active military service" would not make the Rule bad. When the services are different the plea of discrimination is not sustainable.

26. In fact the challenge to the vires of Rule 6(1) is a belated one only after the respondents rectified the mistake occurred whereby the petitioner was granted seniority below one Mr. C.V. Nair by correcting the same in the year 1978.

27. On merit also it is noted that in the year 1973 the matter of fixation of seniority was examined in consultation with Ministry of Home Affairs and his deemed year of allotment on the basis of Army Service was taken as 1963 keeping in view the fact, in case the petitioner had not joined the army he would have appeared in the Combined Engineering Service Examination, 1963 and the last successful candidate of the Combined Engineering Service Examination, 1963 was Mr. C.V. Nair who joined CPWD only in 1965.

28. It was only in the year 1976, it was noticed that an apparent mistake had occurred in fixing the petitioner's seniority which otherwise should have been in terms of the Rules notified on November 25, 1971. It was decided that the petitioner's deemed date of appointment as AEE would be February 25, 1965 and he should have been placed below all Direct Recruits who had been

appointed in CPWD on the result of CES Examination held in the preceding year in 1964, that his name was placed below Mr. S.K. Khanna the last officer of CES, 1964 Exam who joined in 1965. It was a bona fide mistake with the belief that Mr. Nair being the direct recruit of 1965 the petitioner's name was placed below Mr. C.V. Nair which was not the case.

29. Hence it is seen it is the mistake which is sought to be corrected by the respondents granting the seniority to the petitioner in conformity with Rule 6(1) of the Rules.

30. In so far as the third submission of Mr. Dhamija that once seniority list dated January 31, 1979 has been quashed by the Tribunal on May 07, 1987 in T.A. No. 612/1986 the respondents were not right in again imposing the seniority list without considering the observations of the Tribunal is concerned the same is untenable. We have seen the order of the Tribunal dated May 07, 1987. Vide the said order, the Tribunal had quashed the seniority list only on the ground that the respondents had not determined the same after affording adequate opportunity to the petitioner. The Tribunal had directed re-fixation of the seniority of the petitioner within a period of 6 months. We note that the respondents issued a seniority list on October 20, 1994 wherein the petitioner was assigned the seniority as on January 05, 1981 below the person who joined in 1965.

31. We are of the view that the petitioner is not entitled to any relief for the reasons stated by the Tribunal as well as the additional reasons which we have given above. The writ petition is accordingly dismissed. No costs.