

(2020) 12 CAT CK 0089

In the Central Administrative Tribunal

Case No : Original Application No. 943 Of 2020, Miscellaneous Application No. 1933 Of 2020

Mithilesh Jha

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 22-12-2020

Acts Referred:

Citation : (2020) 12 CAT CK 0089

Hon'ble Judges : L. Narasimha Reddy, J; Mohd. Jamshed, Member (A)

Bench : Division Bench

Advocate : Vijay Chandra Jha, R. K. Jain, Saqib, R. V. Sinha, Amit Sinha

Final Decision : Allowed

Judgement

Mohd. Jamshed, Member (A)

1. The applicant was appointed as Senior Scientific Assistant (SSA) (Serology) in Central Forensic Science Laboratory (CFSL) on 29.11.2012. He

continued to work in Serology Division as SSA. It is stated that in the seniority list of SSA as on 01.01.2015 issued by CFSL on 15.01.2015, the

applicant was shown next to one Mrs. Lalita Madan, who was appointed as SSA in 2001.

2. Vide office order No. 115/2016 dated 04.08.2016, sanction of the Competent Authority was accorded regarding merger of the existing ranks of

Scientific Assistant (SA) and Senior Scientific Assistant (SSA). Thereafter, SA and SSA were merged with the nomenclature of SSA notionally

w.e.f. 05.04.2008. Subsequent to this office order the respondents on 3.03.2017 issued a seniority list of SSA as on 01.01.2017, in which the applicant

was placed below one Mrs. Neera Jand, the 3rd respondent herein, who was from

another division.

3. The applicant made representations regarding his placement below Mrs. Neera Jand. His representations were rejected and the seniority list was considered as final by the respondents. The respondents further issued seniority list on 22.03.2019 with the applicant at the same position as in the list dated 03.03.2017. The applicant made representation on 4.07.2020 objecting to the same. The respondents rejected the representation of the applicant vide their order dated 07.07.2020. The applicant, thereafter, filed OA No. 100/890/2020 challenging these orders. The same was dismissed as withdrawn vide order dated 15.07.2020 with liberty to file a fresh OA. The applicant through the present OA seeks quashing and setting aside of the order dated 07.07.2020 and also quashing and setting aside of final seniority list of SSA dated 02.07.2020 to the extent that seniority of the applicant has been downgraded.

4. The contention of the applicant primarily is that he joined CFSL as SSA on 29.11.2012 and has been working in the Serology Division. He was placed below Mrs. Lalita Madan in order of seniority. This has also been reflected in the seniority list of SSA dated 15.01.2015 issued by respondents. He is aggrieved by the fact that the respondents on 03.03.2017 issued another seniority list of SSA and placed him below the 3rd respondent i.e. Mrs. Neera Jand who is from Biology Division. Subsequent seniority list of SSAs issued by the respondents as on 01.01.2019 also indicates the name of the applicant below Mrs. Neera Jand. This seniority list issued on 26.04.2019 was finalized vide order dated 30.08.2019. The applicant has made several representations not only on account of his seniority in the Serology Division below the 3rd respondent, but also challenging the merger of SA and SSA.

5. The respondents have opposed the OA stating that the 3rd respondents has joined the respondent's organization on 06.12.1982 as a Lab Assistant and was promoted as SA on 23.02.1993. Subsequently, with the merger of SA and SSA she became senior to the applicant. It is also stated that she has been working in Serology Division since 2003. It is also submitted that various representations of the applicant have been considered and disposed of regarding his placement in the seniority list. It is also stated that the 3rd respondent has since superannuated w.e.f. 30.11.2020.

6. We heard Mr. Vijay Chandra Jha, learned counsel for the applicant and Mr. R.K.

Jain, Mr. Saqib and Mr. R. V. Sinha with Mr. Amit Sinha,
learned counsel for the respondents.

7. The applicant joined as SSA on 29.11.2012. He has since been working as SSA in Serology Division of CFSL. The respondents vide office order

No. 331/2012 dated 22.08.2012 conveyed the sanction of Competent Authority for merger of existing rank of SA and SSA notionally w.e.f.

05.04.2008 with the nomenclature of SSA. The pay scale of SA was also upgraded to that of SSA. As a consequence, the recruitment rules were also

to be changed. Vide letter dated 15.01.2015 the seniority list of SSA as on 01.01.2015 was issued in order to complete the exercise for framing of

recruitment rules for the post of SSA and the change of nomenclature, etc. In this list, the applicant was shown placed below one Mrs. Lalita Madan.

Subsequently vide office order No. 115/201 dated 04.08.2016 merger of SA and SSA with the new nomenclature of SSA notionally from 05.04.2008

was approved. The respondents issued the seniority list of SSA as on 01.01.2017 vide their letter dated 03.03.2017 wherein the applicant was placed

below the 3rd respondent.

8. It is evident from the record that the 3rd respondent has joined CFSL on 06.12.1982 and has been promoted as SA w.e.f. 23.02.1993. Vide office

order dated 12.11.2003, she was also posted in Serology Division of CFSL by the Competent Authority. After the merger with SSA notionally w.e.f.

05.04.2008 i.e. prior to the joining of the applicant, she became SSA and thus being senior to him she had been placed above the applicant in the

seniority list as on 01.01.2017. In the subsequent seniority lists of SSA issued vide letter dated 26.04.2019 and 30.08.2020, the 3rd respondent was

placed above the applicant. It is also on record that in the earlier seniority list dated 01.10.2009 also it was indicated that the 3rd respondent has been

working in Serology Division w.e.f. 12.11.2003 onwards.

9. From the above, it is evident that the 3rd respondent was granted seniority of SSA prior to the applicant in view of the merger of the grades of SA

and SSA. She has been accordingly listed above the applicant in the seniority list issued in 2017 and 2019 by the respondents. There is no infirmity or

illegality in the office orders regarding merger of SA with SSA, which has been issued with the approval of Competent Authority. Various

representations made by the applicant, repeatedly challenging his placement

below the 3rd respondent in the seniority list have been duly considered and replied by the respondents, explaining the position. The impugned order dated 07.07.2020 clarifies the position yet again that the 3rd respondent was promoted as SA w.e.f. 12.11.2003 and was posted in Serology Division of CFSL. We have been apprised by the learned counsel for the respondents that the 3rd respondent has since superannuated w.e.f. 30.11.2020 and that the DPC for promotion has not yet taken place.

10. Therefore, we partly allow the OA directing the respondents that the applicant's case be considered for promotion from the date of

superannuation of the 3rd respondent, if otherwise eligible, within a period of 03 months from the date of receipt of the copy of this order. Pending

MAAs shall stand disposed of. There shall be no order as to costs.