
(2022) 03 CAT CK 0004

In the Central Administrative Tribunal

Case No : Original Application No. 330, 00207 Of 2022

Mithilesh Rai & Others

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 03-03-2022

Acts Referred:

Citation : (2022) 03 CAT CK 0004

Hon'ble Judges : Tarun Shridhar, Member (A); Pratima K Gupta, Member (J)

Bench : Division Bench

Advocate : Rakesh Kumar Dixit, M.P. Mishra

Final Decision : Disposed Of

Judgement

Tarun Shridhar, Member (A)

1. Shri Rakesh Kumar Dixit, learned counsel for the applicants and Shri M.P. Mishra, learned counsel for the respondents, are present.
2. At the outset, Shri M.P. Mishra submits that now the case has been allotted to him and hence his name may be reflected in the cause lists as the counsel for the respondents instead of the name of Shri Chakrapani Vatsyayan. Registry is directed to take the necessary steps in this regard.
3. The applicants are aggrieved by a seniority list vide which their seniority has been reassigned in such a manner as to place them junior to the persons who were their erstwhile juniors.
4. Learned counsel for the applicants argues that the applicants are likely to come to immediate harm as the respondents have already conducted an examination for promotion in which the applicants have been denied an opportunity to appear whereas people who are their erstwhile juniors have been afforded an opportunity to appear in the said exam. Learned counsel apprehends that once the result of the selection examination comes, the persons junior to the applicants shall be promoted to the detriment of the future prospects of the

applicants.

5. Shri M.P. Mishra, learned counsel for the respondents submits that the applicants themselves are to be blamed for the situation that has arisen as the applicants, in the year 2010, had declined the offer of promotion. Because of the refusal of the applicants to accept promotion, their seniority has been adversely affected. Learned counsel argues that the applicants cannot now approach the department to reassign this seniority especially when they had themselves refused promotion. On the other hand, learned counsel for the applicants draws attention to a document placed at Annexure -A9 (page 48 of the Original Application) which indicates that the respondents had accepted the fact that the applicants were wrongly assigned much below the point where they should have been placed and this communication indicates that the respondents had held out an assurance that they shall make the necessary correction in the seniority list and thus the applicants would be placed correctly. Learned counsel argues that contrary to this communication, now the respondents have gone ahead and afforded an opportunity to their juniors for the promotion examination. At this stage, learned counsel for the respondents points out that the document placed at Page 48 refers to the seniority list of 2016 whereas the seniority list which has been assailed in the instant O.A. pertains to the year 2021.

6. We have heard the learned counsel for the parties and also perused the documents on record. We have also noted the fact that the learned counsel for the applicants is pressing for interim relief by way of a stay on the outcome of the examination held for promotion. Therefore, in our view, in the fitness of things and in the interest of justice, it would be appropriate to dispose of this matter by directing the Competent Authority amongst the respondents to treat this original application as a representation of the applicants and take a well-considered decision on the basis of facts as placed on record especially the contention of the applicants that the respondents have admitted that the applicants were senior to many of the persons who have now been afforded opportunity for promotion examination which has been denied to the applicants.

7. The Competent Authority amongst the respondents is directed to take a decision on the representation, which the applicants are at liberty to submit within a period of one week, within a period of four weeks from the date of this order. It is reiterated that this O.A. shall be treated as a part of the said representation. It is also reiterated that we have not made any comments on the merits of the claim of the applicants. The Original Application is disposed of with the aforesaid directions.

8. The respondents are further directed not to take any final decision on the outcome of the promotion examination till the disposal of the representation of the applicants. It is made clear that in case the applicants do not submit a representation within one week from the date of this order, the respondents shall go ahead and take a decision merely on the basis of this current original application.

9. There shall be no orders as to costs.