

(1999) 11 SC CK 0079
In the Supreme Court Of India
Case No : Civil Appeal No. 5969 Of 1998

Parmeshwar Prasad Daruka	Vs	APPELLANT
Parmeshwari Devi		RESPONDENT

Date of Decision : 03-11-1999

Acts Referred:

Bihar Buildings (Lease, Rent and Eviction) Control Act, 1977 — Section 12C

Citation : (2000) 10 SCC 158

Hon'ble Judges : V. N. Khare, J; S. N. Phukan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties at great length and perused the pleadings before the Administrative Tribunal as well as before this Court. It is expressly made clear that the dispute in this appeal is restricted to the cadre of Development Officer (DO).
2. It is not disputed that there were three sources of recruitment to the cadre: (1) promotion, (2) direct, and (3) transfer. Under the rules quota is prescribed in this behalf. The appellants before us are the direct recruits. Respondents 3 to 50 herein are the departmental promotees. These departmental promotees, it appears, have filed OA before the Administrative Tribunal complaining that although they were senior to the direct recruits by virtue of their appointments in this cadre on officiation, they were pushed down against the direct recruits who are junior to them vis-a-vis the date of officiation. It is therefore prayed that seniority be granted to them on the basis of length of service inclusive of the period of officiation that they have put in the said cadre.
3. As against this the appellants before us have contended that some of the private respondents were appointed against the posts reserved for the direct quota. It was purely on officiating basis. When the candidates (appellants) were appointed against the direct quota, the promotees who were working on the

posts reserved for the said quota would not be entitled to gain seniority over the direct recruits. They, therefore, prayed that the applicants before the Tribunal have no cause of action to quarrel with their seniority in the cadre.

4. The Tribunal by its judgment and order dated 31-10-1990 accepted the claim of the private respondents and held as under :

"IN the result, therefore, we are of the view that the applicants in these OAs are entitled to have their seniority computed afresh from the date of their initial appointments on being regularised. We, therefore, allow these OAs accordingly and direct the respondents either to correct the seniority list of 1984 or to draw a fresh seniority list in the light of the judgment. The applicants will be entitled to consequential benefits as well."

5. The decision of this Court dated 9-12-1980 in Writ Petitions (C) Nos. 13692-98 of 1984 holds the field as regards the principles relating to appointments and fixation of seniority where the quota-rota rule applies in the cadre of ADOs and DOs. It may also be stated that the principle in this behalf is well settled by this Court in various decisions. To quote a few: 1. D.K. Mitra v. Union of India, 2. A.N. Pathak v. Secy. to the Govt., Ministry of Defence, and 3. Delhi Water Supply and Sewage Disposal Committee v. R.K. Kashyap.

6. The Tribunal has overlooked the law laid down by this Court and thus committed an error and therefore the impugned order cannot be sustained.

7. We, therefore direct the Central Administrative Tribunal to consider these decisions and other relevant decisions on these issues with reference to the rival pleadings of the parties and the relevant rules and regulations. It is also made clear that if the parties so desire they may amend the pleadings within six weeks from today. The Central Administrative Tribunal is directed to dispose of the matter as expeditiously as possible and preferably within six months from the date of receipt of this order. The impugned order is set aside and the appeal to stand disposed of in the above terms.

8. The appellants and the private respondents informed us that if the Department concerned of the Central Government creates three supernumerary posts in the cadre in question that will set at naught the grievance of the parties. Since the Department in question is faded the Central Government will consider the suggestion made on behalf of the parties if it deems fit. We hope the Central Government will consider the suggestion sympathetically but in accordance with law. This exercise may be done at an early date.

9. By consent of the parties the petitioner is added as party respondent to OA No. 818 of 1987. The newly added respondent will file his affidavit in reply within 6 weeks from today and serve a copy thereof on the other parties. Rejoinder, if any, to be filed within two weeks thereafter.

10. The SLP to stand disposed of in the above terms.

11. The order of stay dated 8-3-1991 to continue until the disposal of the matter. We hope that none of the parties will take unnecessary adjournments and prolong the matter particularly the parties who have obtained the stay order from this Court.