

Union of India

Vs

Tara Chand Sharma and Others

Kunj Bihari Sharma and Others

Vs

Union of India and Others

Civil Appeals Nos. 3946 to 3953 of 1998

(Sujata V. Manohar, G. B. Pattanaik JJ)

13.08.1998

JUDGMENT

PATTANAİK, J.

1. Leave granted in all the special leave petitions.

2. The inter se seniority between Respondents 1 to 4 who had been promoted to the post of Computers on regular basis on 20-8-1990 and 10-10-1990 and the ad hoc appointees to the said posts, Respondents 5 to 37 herein, whose services were regularised on 14-3-1991 is the subject-matter for consideration in these appeals. It transpires from the available materials on record that certain posts having been created for 1981 census in the cadre of Computers, Respondents 5 to 37 were appointed against those posts but even after the census operation was over, those posts continued and Respondents 5 to 37 were also continued. Ultimately the Registrar General of India after due consultation with the Department of Personnel and Training regularised those appointees by letter dated 12-3-1991, and it was also indicated that the past services rendered by them before regularisation would also count for their seniority as well as eligibility for promotion to the higher grade. Respondents 1 to 4, on the other hand, had been promoted as Computers on regular basis between the period 20-8-1990 to 10-10-1990. When the seniority list was drawn up on 12-4-1993, Respondents 5 to 38 having been placed above Respondents 1 to 4, a representation was made by the said Respondents 1 to 4. The representation having been rejected, they approached the Central Administrative Tribunal at Jaipur by filing OAs Nos. 93, 121, 122 and 172 of 1994. The Tribunal by the impugned judgment being of the view that the ad hoc appointees are not entitled to get their services as ad hoc for the purpose of counting the seniority since the appointment itself was dehors the rules, allowed these OAs and held Respondents 1 to 4 to be senior to Respondents 5 to 37 in the cadre of Computer. It may be noticed at this stage that the promotion of Respondents 1 to 4 to the post of Computer was not on a substantive basis and after expiry of the sanction of the posts of Computer created for 1991 census on account of non-availability of posts of Computer in the cadre, Respondents 1 to 4 were reverted. The said order of reversion was assailed before the Central Administrative Tribunal and the Tribunal had annulled the order of reversion. But the aforesaid

order of the Tribunal being assailed in this Court by the Union of India in Union of India v. Tara Chand Sharma ((1995) 6 SCC 589 : 1996 SCC (L&S) 53 : (1995) 31 ATC 758) by judgment dated 19-10-1995, this Court came to hold that the fact of abolition of posts having been established and Respondents 1 to 4 herein having been temporarily promoted to those posts which have been abolished, they cannot raise any objection to the consequential reversal order. The order of the Tribunal was accordingly set aside and the appeal of the Union of India was allowed thereby. The order of reversion of Respondents 1 to 4 herein from the posts of Computer to their substantive post was approved by this Court. Though opportunity has been given to the said Respondents 1 to 4 to indicate whether they are still continuing as Computer, no such assertion has been made. Though Mr. Krishnamani, learned Senior Counsel appearing for Respondents 1 to 4, contended that that would be a matter which would ultimately be decided only when the seniority matter is finalised, we are unable to accept this contention since we find that Respondents 1 to 4 are no longer continuing as Computers, their order of reversion having been upheld by this Court, as already referred to, and therefore, the question of determining their inter se seniority with Respondents 5 to 37 in the cadre of Computer would not arise.

3. In the aforesaid premises, it is not necessary for us to examine the larger question as to whether the order of the Registrar General directing that the services of Respondents 5 to 37, even prior to regularisation, can be counted for the purpose of their seniority in the cadre. On the admitted position, therefore, while Respondents 5 to 37 are still continuing as Computer, their services having been regularised by the order of the Registrar General in consultation with the Department of Personnel, Respondents 1 to 4 have been reverted from the said cadre and necessarily therefore, Respondents 5 to 37 would be held to be senior in the cadre of Computers. The impugned judgment of the Tribunal in the aforesaid OAs is set aside and the appeals of the Union of India are allowed and the OAs stand dismissed.

4. The appeals arising out of SLPs (C) Nos. 1113-1116 of 1996 for the reasons already indicated are also allowed. But in the circumstances, there will be no order as to costs.