

**Reliance™ - Property Insurance**

Home Package Policy

Get 5 Lakhs Worth  
day\* & Protect Yo  
Online Now![Get this document in PDF](#) [Print it on a file/printer](#)

Try out our **Premium Member** services: **Virtual Legal Assistant**, **Query Alert Service** and an ad-free experience. [Free for one month](#) and pay only if you like it.

## Central Administrative Tribunal - Delhi

### Smt. Shahnaz Khan vs Union Of India on 24 February, 2015

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

OA 1391/2013

New Delhi this the 24th day of February, 2015

Hon<sup>ble</sup> Mr. P.K. Basu, Member (A)Hon<sup>ble</sup> Mr. Raj Vir Sharma, Member (J)

Smt. Shahnaz Khan, Inspector, CBI

Aged about 54 years

W/o late Shri S.Y. Khan (the then Inspector, CBI),

R/o 55 F, CBI Colony, Vasant Vihar,

New Delhi-110057

 Applicant

(Through Shri Naushad Ahmed Khan, Advocate)

Versus

1. Union of India

Through the Secretary

Ministry of Home Affairs,

North Block, New Delhi

2. Union of India

Through the Secretary

Department of Personnel &amp; Training (DoPT),

North Block, New Delhi

3. The Director

Central Bureau of Investigation

New Delhi

 Respondents

(Through Shri Subhash Gosain, Advocate)

ORDER

Mr. P.K. Basu, Member (A) The applicant was appointed as Sub Inspector in CBI on compassionate grounds on the death of her husband late Shri S.Y. Khan, then Inspector CBI. She was appointed on 15.07.1992 and sent on training along with some promoted departmental candidates who had come through the Limited Departmental Competitive Examination (LDCE) and six direct recruits. On 8.08.1993, 26 direct recruits appointed as SI in CBI were sent on basic training. The seniority list of SIs as on 1.01.1995 was circulated on 7.08.1995 and the applicant was placed at serial number 96. On 25.07.1997, after completion of five years of service, the applicant was promoted as Inspector. She was thereafter promoted as Deputy Superintendent of Police. Some direct recruits filed OA 1894/1999 before this

#### User Queries

[direct recruits](#)[ldce](#)[compassionate appointment](#)[compassionate grounds](#)[inter se seniority](#)[compassionate ground appointment](#)[direct recruitment and promotion](#)[182](#)[inspector of cbi](#)[seniority between direct recruit](#)[appointment on compassionate grounds](#)[appointment and seniority](#)[inter seniority](#)[date of joining](#)[dop](#)[basu](#)[interpolation](#)

Tribunal on the question whether the candidates selected earlier can be placed junior to those selected later. Their case was that the advertisement for Direct Recruitment was issued on 30.03.1991 and the examination was held on 4.08.1991. The result was announced on 21.05.1992 and the applicants therein were appointed as SIs in CBI against 80% direct recruitment quota as per the Recruitment Rules (RRs) of 1987. However, they were sent for training much later on 8.08.1993. In the meantime, the rules were amended in March 1991 and a 15% quota of LDCE was introduced. The LDCE against this quota was held in January 1992. The selection process was completed on 15.07.1992 and LDCE qualified candidates were sent for training. The seniority list as on 1.01.1995 was published by the department based on rota quota rule, which was challenged by the applicants in that case stating that since they belonged to an earlier recruitment year i.e. 1991, just because they were sent on training later (perhaps with the connivance of departmental candidates), they should not be placed below all the LDCE recruit of 1992. The OA was allowed. Thereafter, vide letter dated 14.03.2007, the revised seniority list was issued and the applicant was shown at serial number 181-A, between Shri Anil Kumar Sharma at serial number 181 and Shri Biswanath Singh at serial number 182. According to the applicant, this resulted in her supersession by those who were junior to her. Hence this OA.

2. The applicant's case is that she was not a party to OA 1894/1999 nor her seniority was assailed in that OA. Therefore, based on the judgment in the said OA, her seniority cannot be disturbed and placement of LDCE candidates above her was an arbitrary action, which needs to be set aside. The applicant made representation before the respondents but vide communication dated 24.04.2009, her request for rectification in seniority was rejected. This was reiterated in respondents' letter dated 6.07.2012. According to the applicant, appointment on compassionate grounds has to be treated at par with direct recruits and, therefore, when the seniority of the direct recruits was changed as per the Tribunal's order, she could not be relegated from the status of the direct recruit. It is stated that there is no question of treating her seniority even below LDCE recruits.

3. The applicant further states that the respondents have not followed the basic principle of natural justice by issuing a show cause to her before changing her seniority position, detrimental to her interests.

4. The applicant further referred to DoP&T OM dated 16.01.2013, which are consolidated instructions on compassionate appointment. Reference was specifically made to paragraph 7, which reads as follows:

□7. Determination/Availability of Vacancies

(a) Appointment on compassionate grounds should be made only on regular basis and that too only if regular vacancies meant for that purpose are available.

5. The learned counsel for the applicant also raised the issue that while counting five years as qualifying service for promotion as Inspector, she was actually considered in the DPC of 1999 instead of 1997, as a result she lost two years.

6. The respondents have explained the revision of seniority as on 1.01.1995, circulated on 11.06.2001, as follows:

Sl.

No.

Serial No./Nos. in the seniority list Comments Name of Smt. Shahnaz Khan is at Sl.No.96 97 to 122 26 directly recruited Sub-Inspectors appointed through SSC who were en-blocked as per CAT order dated 15.12.2000 and as per advice of DP&T and placed below the candidates appointed as Sub-Inspector for the vacancy year 1900 in 1992 i.e. Shri Pradeep Kumar K. through S.S.C.

Name of Roshan Lal (Bhatt) appointed on 27.9.93 on compassionate ground 124 to 181 Sub-Inspectors appointed in 1992, 1993 and 1994 on the basis of LDCE held in 1992 Biswanath promoted on 23.4.93

7. It is stated that as per Govt. instructions, seniority of persons appointed on compassionate ground have to be fixed with reference to their date of appointment. Their interpolation with the direct recruits/promotees may also be made with reference to their dates of appointment without disturbing the inter seniority of direct recruits/promotees.

8. The learned counsel for the respondents explained that since SIs at Sl. No.97-122 (DRs) are against the vacancies of 1991 and SIs at Sl. No. 124 to 181 (LDCE) are on the basis of LDCE held in January, 1992, the seniority of Smt. Shahnaz Khan has been fixed after the last SI appointed through LDCE 1992 held in January, 1992.

9. The respondents referred to the instructions and guidelines of the DoP&T on seniority with specific reference to para 4.8, which reads as follows:

□4.8 Seniority of persons appointed on compassionate ground DOP&T's OM No.14014/6/94-Estt.(D) dated the 9th October, 1998 provides for the Scheme for Compassionate Appointment in Central Government. Para 15 of the said Scheme provide that:

(a) The inter-se seniority of persons appointed on compassionate grounds may be fixed with reference to their date of appointment. Their interpolation with the direct recruits/promotees may also be made with reference to their date of appointment without disturbing the inter-se seniority of direct recruits/promotees.

(b) Date of joining by a person appointed on compassionate grounds shall be treated as the date of his/her regular appointment.

A number of references were received in this Department seeking clarification as to the fixation of seniority of a person appointed on compassionate ground vis-`-vis direct recruits and promotees in a particular cadre. It is observed that while the afore-said principle has been working fine, there has been difficulty in fixation of seniority when two or more candidates come from direct recruitment/promotion joined the service on different dates. The matter has been reviewed and it has now been decided that the person appointed on compassionate ground in a particular year may be placed at the bottom of all the candidates recruited/appointed through direct recruitment, promotion etc. in that year, irrespective of the date of joining of the candidate on compassionate ground.□ Our attention was also drawn to para 16 of the OM dated 16.01.2013 which provides as follows:

□16. SENIORITY A person appointed on compassionate ground in a particular year may be placed at the bottom of all the candidates recruited/ appointed through direct recruitment, promotion etc. in that year, irrespective of the date of joining of the candidate on compassionate ground.□

10. The respondents have also referred to the judgment of the Hon□ble High Court of Delhi in S.S. Nirmal Vs. UOI and ors., W.P. (C) 3983/2011. In this case, the question which emerged for consideration was whether the petitioner could have been conferred the status of confirmation from the date of his ad hoc promotion and not regular promotion, which came later. As regards the date of shifting of promotion as Inspector, the respondents clarified that the applicant was wrongly en-blocked with 26 direct recruit SIs. Her seniority being at serial 181-A, the next below person was Shri Biswanath Singh at serial 182. Shri Biswanath Singh is Inspector with effect from 21.10.1999 and, therefore, her case was considered for promotion in the DPC held on 14.10.1999 for the rank of Inspector.

11. We have heard learned counsel for the parties and gone through the records of the case.

12. Para 4.8 of the Instructions and Guidelines on Seniority makes it clear that inter se seniority of persons appointed on compassionate grounds has to be fixed with reference to the date of appointment and their interpolation with direct recruits/ promotees has to be made with reference to their date of appointment without disturbing the inter se seniority of direct recruits/ promotees. It is also made clear that the date of joining by a person appointed on compassionate grounds shall be treated as the date of his/ her regular appointment. Thus, it is clear that the date of regular appointment of the applicant has to be treated as 15.07.1992 when she first joined. However, in OM dated 16.01.2013, under paragraph 16, it is clarified that a person appointed on compassionate ground in a particular year may be placed at the bottom of all the candidates recruited/ appointed through direct recruitment, promotion etc. in that year, irrespective of the date of joining of the candidate on compassionate ground.

13. What has happened in this case is that the applicant was wrongly given seniority at serial number 96 above the 57 SIs appointed in 1992, 1993 and 1994 on the basis of LDCE held in 1992. It has also become clear that the direct recruitment was against the examination of 1991. The seniority fixed by the respondents of direct recruits and LDCE candidates was challenged before the Tribunal by the direct recruits and the applicants got an order in their favour. Thereafter, the direct recruits were placed above the LDCE candidates en bloc as they had come through the examination of 1991. The applicant, by mistake, was also included amongst the direct recruits. However since all the LDCE candidates, though finally appointed in 1992, 1993 and 1994 were as a result of LDCE examination of 1992 (before the applicant got appointed), the respondents brought the applicant at serial number 181-A, just above Shri Biswanath Singh at serial number 182, who was promoted on 23.04.1993. We find this is consistent with para 16 of OM dated 16.01.2013 quoted above along with rules cited. The applicant's seniority fixed at serial number 181-A is in order. The order of the Hon<sup>ble</sup> High Court in S.S. Nirmal (supra), however, is not relevant in this case for the reason that the Hon<sup>ble</sup> High Court rejected the Writ on the ground that it was hit by delay and laches. Moreover, the facts of the cited case are not similar to the present case.

12. For the aforesaid reasons, we conclude that the claim of the applicant is not based on the rules applicable in this case. The OA is, therefore, dismissed. No costs.

( Raj Vir Sharma )  
Member (J)

( P.K. Basu )  
Member (A)

/dkm/