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Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 3110/2002

This the 28th day of November, 2002

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri V.K. Majotra, Member (A)

J.P. Bhulania
S/o Shri Shankar Lal Bhulania,
Resident of H-77, Laxmi Nagar Extension,
Laxmi Nagar, Delhi-110092

-Applicant

(By Advocate: Shri B.B. Raval)

Versus

1. Union of India
Through: The Secretary,
Ministry of Human Resource Development,
Department of Education,
Shastri Bhawan, New Delhi.
2. The Secretary,
National Council of Educational Research &
Training, Sri Aurobindo Marg,
New Delhi-110016
3. Shri I.C. Jain,
Under Secretary (E-III),
National Council of Educational Research &
Training, Sri Aurobindo Marg,
New Delhi-110016
4. Shri O.K. Dabas,
Senior Stores Officer,
National Council of Educational Research &
Training, Sri Aurobindo Marg,
New Delhi-110016

-Respondents

ORDER (Oral)

Hon'ble Shri Justice V.S. Aggarwal, Chairman

The applicant was initially appointed as a Lower Division Clerk in the Governement of National Capital Territory of Delhi on 6.7.1977. He was selected as a Store Supervisor in the Ministry of Agriculture. The selection was through the Staff Selection Commission. Subsequently, he was appointed

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as Store Officer in the NCERT w.e.f. 26.7.1995. He was absorbed in the organisation, i.e., NCERT.

2. Applicant claims that he is seniormost Store Officer (SO) and as per the Recruitment Rules, the method of recruitment to the post of Senior Store Officer is by promotion.

3. By virtue of the present application, the applicant seeks quashing of the Departmental Promotion Committee meeting held on 18.9.2002 for the purpose of promotion to the Senior Stores Officer in NCERT being in violation of the guidelines issued by the Department of Personnel and Training and for setting aside of the order passed dated 1.10.2002 promoting respondent No.4 as Senior Stores Officer..

4. The learned counsel for the applicant contends that respondent No.4 has been shown junior to the applicant and in terms of the guidelines that have been issued, the Rules have not been amended. The fresh cause of action had arisen to the applicant by these acts of the respondents and in that view of the matter, the above said reliefs are being claimed.

5. We would have gone into the said controversy. The snag, however, is that the applicant had previously filed an application TA No.7/2002 which was decided by this Tribunal on 18.7.2002. The said application had been dismissed with the following findings:-

"A careful perusal of the order dated 7/9.9.98 issued by NCERT reveals that the

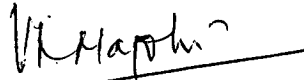
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past service rendered by the applicant in Govt. of NCT of Delhi and Ministry of Agriculture can be counted only in terms of Rule 14 of CCS (Pension) Rules, 1972. Rule 14 of CCS (Pension) Rules, 1972 provides for counting of past service only for the grant of pensionary benefits and not for any other purpose. The judgment of the Hon'ble Supreme Court in the case of D.C. Sarkar (supra) will not render any assistance as the same is not applicable in the present case. In that case the applicant was appointed from the Department of Rehabilitation to P&T Department by way of transfer and not by direct recruitment and therefore it was held that his entire service would be counted in computing eligibility period of 16 years for time-bound promotion. Since the applicant has been appointed as SO in NCERT as a direct recruit only on 26.7.1995 and he has not rendered 10 years service in that post, he is not eligible for consideration. Therefore, respondents have rightly not considered applicant's claim for promotion" (emphasis added).

6.. Perusal of the above said findings clearly shows that a few months earlier from today, this Tribunal concluded that applicant is not entitled for consideration for that post. The said order clearly indicates that once the OA filed by the applicant had been dismissed, the same will act as a res judicata.

7.. Resultantly, when the applicant is not eligible we have no option and accordingly we dismiss the OA in limine.


(V.K. Majotra)
Member (A)


(V.S. Aggarwal)
Chairman

cc.