

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 218/2001

New Delhi, this the 30th day of January, 2002

HON'BLE SH. S.R.ADIGE, VICE CHAIRMAN (A)
HON'BLE SH. SHANKER RAJU, MEMBER (J)

S.C.Kaushal
Age 58 years
S/o Late Shri Yash Paul Kaushal
Resident of XY-1,
Sarojini Nagar,
New Delhi-110023.

Administrative Officer
Office of the Commissioner of Central Excise
Commissionerate,
Delhi-II, Faridabad.
(By Advocate: Sh. A.K.Trivedi)

Versus

1. Commissioner (Central Excise),
Central Excise Commissionerate,
Delhi-I, Central Revenues Building,
I.P.Estate, New Delhi-110002.
2. Union of India
through its Secretary,
Ministry of Finance,
Govt. of India,
North Block,
New Delhi-110001.
(By Advocate: Sh. R.R.Bharti)

ORDER (ORAL)

By Sh. S.R.Adige, Vice Chairman (A)

Applicant seeks regularisation w.e.f. 30.9.85, ~~from~~ the date on which he was appointed on ad hoc basis with consequential benefits.

2. Heard counsel for both the sides.
3. As per respondents own averments, applicant was promoted as A.O. on ad hoc basis w.e.f. 30.9.85 against a reserved post of SC candidate and was to be regularised as such, subject to the approval of dereservation proposal by the competent authority, as applicant belongs to General category.

12

Ministry's approval for dereservation was received on 31.3.87, but respondents states that meanwhile, before formal orders for regularisation of the applicant in the post of A.O. could be issued, he was involved in disciplinary cases in which the disciplinary authority had ordered ~~to~~ issue ^{of} a chargesheet against him. Under the circumstances, he could not be regularised in the grade of A.O. on that crucial date, i.e., 31.3.87. It is further stated that three chargesheets were issued to him in 1988, of which the first two chargesheets were dropped, but in the third case he was awarded penalty of stoppage of one increment without cumulative effect vide disciplinary order dated 23.7.90, which on appeal was modified to Censure. Thereafter applicant's case for regularisation was considered by a review DPC and upon his being found fit for regular promotion as A.O. he was regularised, as such, w.e.f. 26.2.93.

4. As per respondents own averments referred to above, the Ministry's approval for dereservation was received on 31.3.87, and nothing has been shown by respondents to establish that on that crucial date, i.e. 31.3.87, there was any material to render applicant unfit for regularisation. Indeed the chargesheets were issued to him in 1988, much after the crucial date, i.e., 31.3.87, and therefore, could not have been taken into account by respondents to deny applicant's regularisation w.e.f. 31.3.87.

5. Applicant cannot claim regularisation as A.O. prior to 31.3.87 as the post was reserved for SC category, and applicant belonging ~~ing~~ to General category and approval for dereservation was obtained only on 31.3.87, but he has a claim for consideration for regularisation as A.O. w.e.f. 31.3.87.

7

(13)

6. Accordingly this OA is disposed of with the direction to respondents to consider applicant's claim for regularisation w.e.f. 31.3.87, (i.e., the date on which the approval for dereservation of the post was received), on the basis of the available material existing on that date. In the event, pursuant to these directions, applicant is held fit for regularisation w.e.f. 31.3.87, ^{he}he shall be entitled to consequential benefits in accordance with rules and instructions and judicial pronouncements on the said issue. These directions should be implemented within 3 months from the date of receipt of a copy of this order. No costs.

S. Raju

(SHANKER RAJU)
Member (J)

S.R. Adige

(S.R ADIGE)
Vice Chairman (A)

'sd'