

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.2494/2001

This the 25th day of September, 2002.

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HON'BLE SHRI JUSTICE V.S.AGGARWAL, CHAIRMAN

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Vijay Bhushan Gupta S/O H.P.Gupta,
F-C/30 Lajpat Nagar,
P.O.Sahibabad, Distt. Ghaziabad,
Uttar Pradesh.

... Applicant

(By Shri Ranjan Mukherjee, Advocate)

-versus-

Union of India through
Secretary, Ministry of Statistics
& Programme Implementation,
Government of India,
Sardar Patel Bhawan, Sansad Marg,
New Delhi-110001.

... Respondent

(By Shri K.C.D.Gangwani, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant has challenged respondents' memo dated 22.8.2001 (Annexure-XX) whereby his request seeking extension of benefit of order dated 16.2.2000 of this Tribunal in O.A. No.1144/1996 (Annexure-XIV) has been rejected.

2. The admitted facts in this case are that applicant was appointed as Computer (Senior Scale) in Central Statistical Organisation on 15.3.1975. In 1976 certain regular vacancies of Junior Investigator came into existence. 50% of these vacancies were to be filled up by direct recruitment and the remaining 50% by promotion. Applicant was appointed as a direct recruit Junior Investigator w.e.f. 15.12.1976. S/Shri Suresh

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Kumar, R.S.Attri and K.L.Goyal were appointed as Computer (SS) on 22.5.1969, 25.9.1969 and 23.6.1969 respectively. Though applicant was appointed as a direct recruit Junior Investigator on 15.12.1976, these Computers (SS) had been appointed as Junior Investigator w.e.f. 13.7.1973, 16.9.1974 and 13.1.1975 respectively. However, by virtue of rota quota system, applicant became senior to these officers as Junior Investigator. By order dated 5.6.1979, respondents appointed the said three persons as Senior Investigator on ad hoc basis. The learned counsel of applicant stated that the recruitment rules prescribe five years' minimum regular service as Junior Investigator before consideration for promotion to the post of Senior Investigator. Although the said three persons had not completed five years of regular service as Junior Investigator, they were granted relaxation of this condition and promoted. The learned counsel stated that applicant should also have been granted relaxation and promoted along with the said juniors. According to the learned counsel, these persons were given benefit of the judgment in O.A. No.1144/1996. That O.A. was disposed of with the following observations/directions :

"43. For these reasons, both these O.As. are liable to be dismissed on merits. However, there is one point which required consideration. Admittedly, the applicants in both the O.As. have been regularised only by the order issued on 10.9.90 or on subsequent dates. The respondents themselves have conceded that regular vacancies of SIs arose in 1986, consequent upon the implementation of the judgement in Narender Chadha's case. Timely regularisation of the applicants against these posts could not be made because of the pending litigation in Dina Nath's case etc. While that may be true, we are also of the view that by regularising the applicants only from September, 1990 and thereafter, even though vacancies were available from 1986

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onwards, an opportunity has been given to direct recruits who might have been recruited between 1986 and 1990 to steal a march over the applicants in the matter of inter se seniority. Such a result cannot be allowed to come about to the detriment of the applicant's interests. Therefore, while we find no merit in the O.As., in so far as the specific prayers made in them are concerned and would have dismissed them, we find it necessary to grant the applicants partial relief by quashing the orders dated 10.9.1990 and directing the respondents to consider the case of the applicants by a review DPC for regularisation, in accordance with the rules, as and when the regular vacancies arose, i.e., in 1986 and thereafter and regularise them with effect from the date on which the vacancies were available for regularisation of promotees. We do so accordingly. This shall be done within a period of three months from the date of receipt of this order and the applicants shall be intimated."

3. Whereas applicant's juniors were regularised as Senior Investigator before completing five years of regular service by granting them relaxation, applicant was discriminated against and regularised much after his juniors were regularised on the post of Senior Investigator. S/Shri Suresh Kumar, R.S.Attri and K.L.Goyal were appointed as Senior Investigator on regular basis w.e.f. 14.6.1979, 16.9.1979 and 13.1.1980 respectively vide Annexure-XV dated 1.12.2000 in pursuance of order dated 16.2.2000 in cases O.A. Nos.390/1996, 710/1996 and 1144/1996.

4. On the other hand, the learned counsel of respondents stated that applicant had earlier on filed O.A. No.2051/1989 seeking regularisation of service as Senior Investigator w.e.f. 1.6.1979 along with consequential seniority and monetary benefits. The Tribunal had observed in that behalf in their order dated

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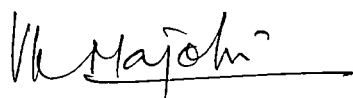
22.11.1993 (Annexure-XII), "we note that the applicant has impugned the order dated 5.6.79 (Ann.8) by which five JIs were granted adhoc promotion from 1.6.79 as SIs of whom three viz. Shri Suresh Kumar, Shri R.S.Attri and Shri K.L.Goyal are applicants in the connected OA 1631/89. Against this order, the applicant had sent a representation dated 15.6.79 to the Director, CSO (Ann.9). Ultimately, by the Ann.12 memorandum dated 4.6.79, the applicant was informed that his representation dated 15.6.79 has been rejected." The learned counsel stated that the present O.A. in which a similar relief has been claimed as in O.A. No.2051/1989 is hit by res judicata. The learned counsel further stated that S/Shri Suresh Kumar, R.S.Attri and K.L.Goyal had been granted relaxation under the rules as a class for consideration for regularisation of their services on completing four years' regular service as Junior Investigator instead of the requisite five years. Applicant having been recruited as Senior Investigator only in December, 1976 could not have been granted relaxation as he had not completed four years in 1979/1980. His services too were regularised w.e.f. 15.11.1983 when he had not completed five years' service as Senior Investigator.

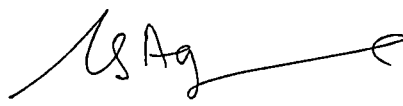
5. We have carefully considered the rival contentions made in this case. When applicant's earlier application, namely, O.A. No.2051/1989 in which he had claimed regularisation of his services as Senior Investigator w.e.f. 1979 was rejected, coming up with a prayer for regularisation of his services from 1977,

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i.e., earlier than even 1979, does not stand to reason. We are in agreement with the learned counsel of respondents that S/Shri Suresh Kumar, R.S.Attri and K.L.Goyal had been accorded relaxation in the rule as per respondents' policy decision for one-time relaxation for those who had completed four years of service in the feeder post. This relaxation had been provided to a class of personnel. Applicant having joined as Senior Investigator in December, 1976 could not have been granted any relaxation as he had not completed even four years as Senior Investigator. He did not fall in the class of employees about whom relaxation of one year for regularisation of their services had been decided upon. In this regard, it is our considered view that applicant had not been meted out any discriminatory treatment vis-a-vis the other three personnel. He was ultimately appointed as Senior Investigator w.e.f. 28.1.1981 when he too had rendered more than ^{four 1/2} ~~five~~ years in the grade of Junior Investigator. Regularisation of the services of S/Shri suresh Kumar, R.S.Attri and K.L.Goyal in implementation of the judgment in OA No.1144/1996 with effect from the respective dates of their officiation and appointment of applicant as Senior Investigator w.e.f. 28.1.1981 are quite in order as we have not found any infirmity in respondents' orders in regard to them.

6. Having regard to the reasons stated above, this O.A. is dismissed being devoid of merit. No costs.


(V. K. Majotra)
Member (A)


(V. S. Aggarwal)
Chairman

/as/