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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BERNCH

OA No. 16/1999

New Delhi this the 9th day of January, 2002

Hon'ble Shri S.R. Adige, Vice Chairman (A)
Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

Shri N.K.Taneja
S/O Shri A.N.Taneja
R/O 324, 4-Marla Model Town,
Gurgaon

Applicant

(By Advocate Mrs. Meera Chhibber)

VERSUS

The Director General,
Council of Scientific and
Industrial Research, 2, Rafi Marg,
New Delhi.

Respondents

(By Advocate Sh. Manoj Chatterjee
along with Ms. K. Iyer)

O R D E R (ORAL)

(Hon'ble Shri S.R. Adige, Vice Chairman (A))

This case has been received on remand from
the Delhi High Court vide their order dated 19.7.2001
in CWP No. 2232/2000.

2. Applicant seeks a direction that he be held entitled to be considered for promotion to the post of Sr. Stenographer, being eligible as on 1.4.1994 and within the zone of consideration. He prays for convening a Review DPC and if found fit, to give him promotion with effect from 1.4.94 with all consequential benefits.

3. Applicant, who was a Junior Stenographer

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in CBRI, Roorkee joined CSIR Headquarters on 1.8.1990 on his own request, his transfer being subject to his having to forego his seniority at the Laboratory/Institute and accordingly he was placed at the bottom of the list of Jr. Stenos in his own cadre upon his transfer to HQ namely at Sl.No.16.

4. Pursuant to the cadre review conducted by respondents, the strength of administrative staff in CSIR was revised by OM dated 20.10.1994 whereby 7 additional posts of Senior Stenographers (Rs.1400-1600 Pre-revised) became available on 1.4.1994.

5. Respondents held DPC for making promotion to the aforesaid 7 additional posts of Sr. Stenos. in sometime in 1995, whereby the candidates at Serial numbers 2-7 of the seniority list were promoted, Sl.No. 1 having already left the job. Serial numbers 8 to 15 were not promoted as they did not posses 10 years of regular service ~~as on 1.4.1994~~ as on 1.4.1994, which was an essential qualification for consideration for promotion. Applicant's case was not considered on the ground that those senior to him had not acquired the qualifying number of years of service. It is not denied by respondents that he possessed the necessary 10 years of regular service as on 1.4.1994.

6. The question for adjudication is whether the applicant ~~was~~ could ^{not} have been ~~considered~~ ^{denied} for promotion as Sr. Steno merely because persons senior to him in the seniority list had not acquired the necessary qualifying number of years of service.

7. In this connection, our attention has been invited to the ruling of the Hon'ble Supreme Court in **Renu Mullick (Smt.) Vs. Union of India and Ors.** (1994(1)SCC 373 wherein it has been held that service rendered prior to unilateral transfer at own request also counts for determining the eligibility condition though such transfer down grades seniority. The Hon'ble Supreme Court in **R. Prabha Devi and Ors Vs. UOI** (AIR (1998(2)SCC 233 reiterates the same proposition of law, though in somewhat different language. In the circumstances, we hold that the applicant could not have been overlooked for consideration for promotion as Senior Stenographer by the DPC, merely because persons senior to him in the seniority list had not acquired the necessary qualifying number of years of service.

8. In the result, the OA succeeds and is allowed to the extent that respondents are directed to convene a review DPC to consider the applicant's case for promotion as Senior Steno w.e.f 1.4.1994, and if found fit, promote him as such. The applicant shall also be entitled to consequential benefits flowing therefrom. These directions shall be implemented within a period of three months from the date of receipt of a copy of this order. No costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

S.R. Adige
(S.R. Adige)
Vice Chairman (A)