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Central Administrative Tribunal
Principal Bench

O.A. No. 2799 of 1999
(Principal Bench)

New Delhi, dated this the 1 JANUARY 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

K. Prabhakaran (MES/400177),
Office Superintendent Grade II,
Office of Garrison Engineer (NW),
Colaba,
Mumbai-400005.

.. Applicant

(By Advocate: Shri M.L. Ohri)

Versus

1. Union of India through
the Secretary,
Ministry of Defence,
DHQ P.O.
New Delhi-110011.
2. The Engineer-in-Chief,
Army Headquarters,
Kashmir House,
New Delhi-110011.
3. Chief Engineer,
Southern Command,
Pune-411001.
4. The Chief Engineer,
Central Command,
Lucknow.
5. The Garrison Engineer (Naval Works),
Dr. Homi Bhabha Road,
Navynagar, Colaba,
Mumbai-400005.

.. Respondents

(By Advocate: Shri R.P. Aggarwal)

ORDER

S.R. ADIGE, VC (A)

Applicant was initially appointed as L.D.C. under Chief Engineer, Central Command, Lucknow w.e.f. 26.6.63. He was promoted as Stenographer Grade III w.e.f. 17.3.66 in the same Command. In April, 1970 he gave his option for promotion in Clerical line (Annexure R-4). Later at applicant's own request he

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was transferred to Southern Command where he reported for duty on 11.1.91. Respondents called for revised options from those who wanted to switch back to Stenographers cadre. In response to that, applicant submitted his option dated 27.11.96 (Annexure A-15) for promotion in Stenographers cadre, subject to maintenance of his original seniority as Stenographer Grade III w.e.f. 17.3.66. Respondents rejected applicant's option dated 27.11.96 on the ground that it was conditional, and stating that they were willing to accept applicant's option by giving him seniority as Stenographer Grade III only w.e.f. 11.1.91 and not before. Applicant aggrieved by this decision and has filed this O.A. to seek the monetary benefits accorded to Stenographers vide Department of Personnel O.Ms dated 6.1.77 (Annexure A-3) and 6.2.89 (Annexure A-4). Meanwhile it is not denied that since applicant had originally opted for clerical cadre, his initial date of appointment as LDC was considered by respondents and he has been promoted as Office Superintendent Grade II in 1995 in his turn.

2. The question for adjudication is whether applicant, who on his own volition opted for career advancement in the clerical line, and came over to the clerical line in 1970, and received successive promotions in the clerical line which has taken him upto the level of O.S. Grade II, ^{has an enforceable legal right to compel} respondents at this stage, after he has put in 25-30 years in clerical line, to take him back in the Stenographers line, which is admittedly a different stream/cadre, and that too by protecting his seniority as Stenographer Grade III

w.e.f. 17.3.66 in the stenography line, from where he

had switched over to clerical line, to enable him to get the monetary benefits contained in aforesaid O.Ms dated 6.1.77 and dated 6.2.89.

3. In our considered opinion no such legal right accrues to applicant. We have perused the materials on record carefully, including the CAT (Ernakulam) Bench order dated 9.9.91 in O.A. No. 539/90, and nothing contained therein gives applicant such an enforceable legal right. The aforesaid O.Ms dated 6.1.77 and 6.2.89 as well as copies of the Court orders on record, relate to persons working as Stenographers, but it is not denied by applicant that pursuant to his option to come over to the clerical line, which he exercised in April, 1970 (Annexure R-4), he has secured opportunities for career advancement in the clerical line, and now when he is on the verge of retirement he cannot lay a claim to switch back to stenography line with protection of seniority as Stenographer Grade III w.e.f. 17.3.66.

4. During the course of hearing applicant's counsel contended that persons junior to him as Stenographers namely Shri Thomas, Shri Ravani, Smt. Susamma Jose and Shri A.K. Mahna were granted the benefits of O.M. dated 6.1.77 and 6.2.89 and denial of the same to applicant would be discriminatory. In our view these contentions do not have merit, because while the mentioned persons had not switched over to clerical line, applicant had exercised his option in April, 1970 for career advancement in clerical line.

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5. Under the circumstances, the O.A. warrants no interference. It is dismissed. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

S.R. Adige

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

karthik