

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2847/1999

New Delhi, this 13th day of November, 2000

Hon'ble Shri Kuldip Singh, Member(J)  
Hon'ble Shri M.P. Singh, Member(A)

L.K. Wahal  
18, Sector 7A  
Chandigarh

.. Applicant

(By Shri B.T.Kaul, Advocate)

versus

Union of India, through

1. Secretary  
Ministry of I&B  
Shastri Bhavan, New Delhi
2. Director General  
All India Radio  
Akashvani Bhavan, New Delhi
3. Director (A&F)  
Prasar Bharti  
Broadcasting Corpn. of India  
c/o DGAIR, New Delhi

.. Respondents

(By Shri R.V. Sinha, Advocate)

ORDER(oral)

By Shri Kuldip Singh

The applicant in this case, who is a retired person, filed the present OA seeking the following reliefs:

(i) Communication dated 30.10.98 rejecting his claim for grant of seniority as Programme Executive from the date of his promotion be set aside;

(ii) Grant him the benefit of ad hoc service/continuous officiation in the said post for the purpose of seniority; and

(iii) Grant him notional promotion to the rank of ASD and SD with all consequential benefits

2. The case of the applicant is that he was promoted on ad-hoc basis as Programme Executive with effect from 28.7.71, regularised subsequently and thereafter superannuated on 31.1.1985. In the meantime Shri M.P.

(14)

Verma and others filed OA No.663/86 claiming seniority on the basis of their ad-hoc officiation. Recruitment Rules for the post of Programme Executive provide for both direct recruitment and promotion. That OA was allowed by order dated 5.2.1998 directing the respondents to grant seniority to the applicants therein. The SLP filed against that order was dismissed by the Hon'ble Supreme Court. Thereafter, the Department issued Memorandum on 8.11.1988 wherein it was decided to extend the benefit of the judgement the benefit of ad hoc service for the purpose of seniority to all similarly placed Programme Executives. Since the case of the applicant was not considered in pursuance of the judgement dated 5.2.98 and Memo dated 8.11.88, he submitted his representation which was ultimately rejected by the impugned order dated 28.10.98.

3. Respondents in their counter have taken the plea that when the case of seniority was being undertaken the applicant had already superannuated and the Government did not consider the names of those who had already superannuated.

4. Learned counsel for the applicant however contended that similarly situated persons like him viz. Shri D.R. Kapoor and Shri Shastri who had retired prior to 1.10.85 had also been given due seniority on the basis of their ad-hoc officiation as Programme Executive.

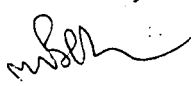
5. We have heard the learned counsel for the parties and perused the records.

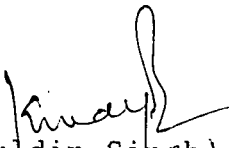
(15)

6. Learned counsel for the respondents raised objection on the point of limitation. The applicant has filed MA for condonation of delay stating the reasons for approaching this Tribunal in time. Since there is no rebuttal by the respondents regarding extending the benefit of the judgement to the retired persons namely Shri D.R. Kapoor and Shri Shastri the objection raised by the respondents is not sustainable.

7. Since the case of the applicant is fully covered by the judgement in OA No.663/86 (supra) and the respondents decided to extend the benefit of that judgement to all similarly situated persons including those who had since superannuated by OM dated 8.11.88, we do not find any reason not to extend the benefit of the judgement to the applicant who is similarly situated and is since superannuated.

8. The OA is allowed. Respondents are directed to grant seniority to the applicant and notional fixation of pay for the purpose of revision of pension. This shall be done within a period of three months from the date of receipt of a copy of this order. No costs.

  
(M.P. Singh)  
Member(A)

  
(Kuldeep Singh)  
Member(J)

/gtv/