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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 593-90

New Delhi this the 25th day of October, 2000

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER(J)
HON'BLE MR. V.K. MAJOTRA, MEMBER(A)

Shri Rahul Singh
S/o Late Shri R.N. Singh
A210 Pandara Road, New Delhi.
(None Present)

-Applicant

Versus

1. Union of India, through
Secretary
Department of Defence
South Block
New Delhi
2. Joint Secretary (Adm) & CAO
Office of CAO
Ministry of Defence
Dalhousie Road, CII Hutmants
DHQ PO
New Delhi.

-Respondents

(None Present)

ORDER (Oral)

Shri V.K. Majotra, Member (A.)

The applicant and the respondents remained unrepresented today i.e. 25.10.2000. We have proceeded to dispose of the OA in terms of the provisions of Rule-15 of the CAT (Procedure) Rules, 1987.

2. The applicant was recruited as an Assistant Civilian Staff Officer (ACSO) on the basis of Civil Service Examination 1979. Under AFHQ Civil Services Rules, 1968, ACSOs with 8 years of approved service in the grade are eligible for promotion to the grade of Civilian Staff Officer (CSO). The applicant became eligible for consideration for promotion to the grade of CSO in the year 1988-89. The DPC for the panel year 1988-89 was held in 1992. The applicant was promoted as CSO in October

1992 on the basis of the select list for 1988-89.

3. The applicant filed OA 1495/91 in this Tribunal praying that he should be treated as regular CSO w.e.f. 1.10.1984. The Tribunal vide its order dated 14.12.92 (Annexure-1) held that his services in the grade of CSO from 1.10.88 should be reckoned as he became eligible having completed 8 years approved service on 1.10.88 provided that he actually figured in the Select Lists for the year 1988-89. The respondents filed an SLP which was dismissed on 14.7.95 (Annexure-2). Consequently, Ministry of Defence issued order dated 27.9.95 (Annexure-3) granting the applicant regular service in the grade of CSO w.e.f. 1.10.88 instead of 1.10.92. The respondents applied the principle, ~~to~~ all the persons senior to the applicant while implementing the order.

4. The Union of India vide order dated 23.1.96 appointed the applicant to the grade of Senior Civilian Staff Officer (SCSO) on officiating basis for a period of six months which was extended from time to time. The applicant was appointed vide respondents letter dated 15.10.98, to officiate in the grade of SCSO for a period of six months from 7.10.98 till 6.4.99.

5. According to the applicant, one Smt. Amini Rajan filed R.A.268/97 in OA 1495/91, five years after the CAT order dated 14.12.92. The R.A. was dismissed on 20.11.97 (Annexure-5). She was granted liberty to raise the issue about her seniority in the pending OA 1356/97. The applicant was allowed as an intervenor in that OA.

6. Five officers in the grade of SCSO who were

holding the posts on regular basis and one officer senior to the applicant who was holding the post on officiating basis were on deputation. Their vacancies were filled up by making officiating appointment under Rule-10 (2) for the period these officers were away from the cadre. On their repatriation, the respondents were to terminate the officiating appointments of equal number of junior most officers who were officiating as SCSO. Thus, five officers including three senior to the applicant had to be reverted ~~to~~ ^{between} the grade of CSO ~~on~~ 31.3.99 and 5.4.99. The applicant was not reverted in view of the interim stay dated 26.3.99.

7. Smt. Amini Rajan and Shri M.C. Scaria (Applicants No. 1 & 5 in OA No. 1356/97) were appointed as SCSO under Rule 10(2) of AFHQ Civil Services Rules w.e.f. July 1994 and July 1995 respectively based on their seniority in the grade of CSO obtaining at that time. The Select Lists for promotion to the grade of CSO were reviewed after implementation of the judgment dated 20.11.92 in TA No. 356/85 Shri M.G.Bansal & Ors. Vs. Union of India. Smt. Amini Rajan and Shri M.C. Scaria were down-graded in seniority in the grade of CSO.

8. The applicant has averred that since he is senior to both Smt. Amini Rajan and Shri M.C. Scaria as per the Union of India's own seniority lists, he should not be reverted if his juniors are stay put on promotion.

9. The applicant has sought direction to the Union of India not to revert the applicant to the post of CSO unless his juniors are first reverted to the grade of CSO and that DPC in respect of the applicant for regular promotion to the grade of SCSO should be held.

10. According to the respondents, on repatriation of senior officers including three officers who were senior to the applicant was to be reverted to the grade of CSO. The applicant was not reverted in view of the interim stay granted by this Tribunal on 26.3.99. The interim order was confirmed vide order dated 13.4.99 (Annexure R-1).

11. In pursuance of the order dated 20.11.92 in TA 356/85, the Select Lists in the grades of ACSO and CSO were reviewed. According to the respondents, officers figuring in the reviewed Select Lists in the grade of CSO are only eligible for consideration for promotion to the grade of SCSO in the order of their seniority. The respondents have issued the eligibility list of CSO vide their letter dated 15.12.98 (Annexure R-II) on the basis of the reviewed Select Lists for the year 1988-89 and 1989-90 in the grade of CSO. This eligibility list now forms the basis for promotion to the grade of SCSO. Accordingly officers senior to the applicant are continuing in the grade of CSO. The respondents have contended that there is no ground for continuation of the applicant in the higher post of SCSO till his seniors are promoted.

12. Considering the pleadings of respective sides and the material available on record, we find that applicant's appointment as SCSO was a stop gap arrangement liable for termination without notice for administrative reasons or for non-availability of vacancies or availability of regular incumbents, whichever was earlier. Five regular incumbents in the grade of SCSO returned from deputation in March/April 1999. To accommodate them on

repatriation, it was necessary to revert five junior most officers to the post of CSO. Since the applicant had already obtained a stay against his reversion, he could not be reverted. However, three officers senior to the applicant and two officers junior to the applicant were reverted to accommodate five regular incumbents of the post. The averment of the applicant that his reversion was due to administrative reasons related to seniority is unacceptable.

13. The applicant was appointed as an ad hoc CSO w.e.f. 1.10.84 and as officiating CSO under Rule 10(2) w.e.f. 1.10.88. Though he was eligible for consideration for promotion to the grade of CSO in the panel year 1988-89, the DPC could not be held before 1992. He was promoted as CSO on regular basis w.e.f. 16.10.92. After implementation of the order of this Tribunal dated 14.12.92 in OA 1495/91, the applicant was appointed as SCSO on officiating basis w.e.f. 23.1.96 based on his seniority in the grade of CSO. Consequent to the implementation of the judgment of M.G. Bansal's case, Smt. Amini Rajan and Shri M.C. Scaria now figured below the applicant in the seniority list in the grade of CSO. The applicant is not entitled to continue in the grade of SCSO based on his present seniority in the grade of CSO. Three officers senior to the applicant have already been reverted on repatriation of officers senior to them and they are continuing in the lower grade of CSO. The continuance of the applicant in the grade of SCSO while officers senior to him have repatriated from deputation cannot be allowed unless there are vacancies available. In the present case, five senior officers have repatriated to the grade of SCSO, officers junior to them including the applicant

who have been holding the post of SCSO under Rule-10(2) have to be compulsarily reverted to the post of CSO. Three officers senior to the applicant have already been reverted.

14. We do not find any malafide intention in the action of the respondents in reverting the applicant to the post of CSO on return of senior officers from deputation. The respondents have resorted to the process of reversion on the basis of the reviewed Select Lists in the grade of ACSO in pursuance of the judgment in TA 356/85.

15. Having regard to what is described above, we are unable to find fault with the action of the respondents in accommodating five senior officers in the grade of ACSO on their repatriation and resorting to reversion of officers junior to them to the lower grade of CSO. The OA is accordingly dismissed being devoid of merit. Needless to state that the interim order dated 26.3.99 restraining the respondents from reverting the applicant to the post of CSO stands vacated automatically. No costs.

V.K. Majotra

(V.K. MAJOTRA)
MEMBER (A)

Lakshmi Swaminathan

(SMT. LAKSHMI SWAMINATHAN)
MEMBER (J)

CC.