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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 1468/1998

New Delhi, this 15th day of April, 1999

Hon'ble Shri T.N. Bhat, Member (J)
Hon'ble Shri S.P. Biswas, Member (A)

1. Chander
GI-1040, Sarojini Nagar
New Delhi

2. S.P. Sharma
110, Lodi Road Complex
New Delhi

Applicants

(By Shri B.B. Raval, Advocate)

versus

Union of India, through
Secretary
Ministry of Surface Transport
Transport Bhavan, New Delhi

Respondent

(By Shri K.C. Dewan, Advocate)

ORDER

Hon'ble Shri S.P. Biswas

1. Both applicants seek issuance of directions to the respondent to give them promotions in the manner as under: The first applicant seeks promotion to the posts of Assistant and Section Officer thereafter. While the second applicant claims promotion to UDC initially and Assistant thereafter. These have been claimed pursuant to the judgement of this Tribunal dated 7.10.97 in OA 1787/92 by which the applicant therein (Shri B.L. Chauhan) was ordered to be promoted as Section Officer with effect from 11.1.92 from the post of Assistant. Shri Chauhan has retired from service with effect from 31.5.93 on attaining the age of superannuation.

2. Before considering the legality of the reliefs prayed for, it would be apposite to mention brief background facts of this case. The applicants while working as UDC and LDC (ex-cadre posts) respectively in the Inland Water Transport Directorate (IWTD for short) were transferred to the Ministry of Surface Transport (MST for short) alongwith their posts by an order dated 20.2.87. This was followed by another order dated 20.1.92 by which the applicants alongwith a few others similarly placed were taken on the permanent strength of MST against ex-cadre posts. It was stipulated in that order that "as and when these posts fall vacant due to retirement/resignation/ death etc. the posts will be filled up by promotion from amongst the eligible employees of erstwhile IWTD". In the meanwhile one Shri B.L. Chauhan, who also joined IWTD as LDC and while working as Assistant, filed OA No.1787/92 seeking promotion to the post of Section Officer based on the stipulation referred to above in order dated 20.1.92. This was disposed by a co-ordinate Bench of this Tribunal by an order dated 7.10.97 with the direction to the respondents to consider Shri Chauhan for promotion against one of the two posts of Section Officer from the date it fell vacant if he was otherwise eligible in accordance with rules and instructions. Following this judgement, respondent issued an order 20.3.98 by which Shri Chauhan, though retired from 31.5.93, stood promoted as Section Officer with effect from 11.1.92, on notional basis. As a result of retirement of Shri Chauhan, applicant No.1 claims

promotion as Assistant from the date Shri Chauhan was promoted as SO and as SO from 11.1.98 while applicant No.2 claims promotions as UDC and Assistant, vice applicant No.1.

3. Respondent has opposed the claim stating that applicant No.1's request was examined in consultation with DOPT but no decision could be taken in his favour as the decision in B.L.Chauhan Vs. UOI holds good in his case only and it was person specific and the resultant benefit does not automatically pass on to the applicant. Learned counsel for the respondent further contended that another OA 1178/96 (Shri S.P.Sharma & Ors. Vs. UOI) involving promotion of ex-cadre employees of erstwhile IWTD (including the second applicant) is pending before this Tribunal. Respondent has not denied eligibility of both the applicants for promotional posts as claimed. Their only objection is that orders of this Tribunal in OA 1787/92 is applicable only for Shri Chauhan and that promotion of applicant No.2 can only be considered after applicant No.1 vacates his post of UDC on superannuation on 31.5.2000.

4. As per settled law, one has no vested right for promotion. He can only be considered for promotion in accordance with the rules on the subject. However, in view of the stipulation in respondent's order dated 20.1.92 that the posts would be filled by promotion from amongst the eligible employees of erstwhile IWTD and as per respondent's own

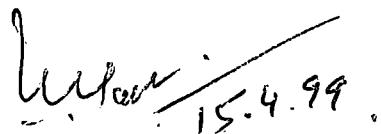
admission that both applicants belong to erstwhile IWTD, they cannot be denied consideration for promotion if they are otherwise eligible.

5. In the result, this OA is allowed with the directions to the respondent that both the applicants shall be considered for promotions against the post vacated by Shri Chauhan if they are otherwise eligible in accordance with rules and instructions. Respondent shall pass a detailed speaking and reasoned order thereupon within a period of three months from the date of receipt of a certified copy of this order. In case the applicants are so promoted, they shall be given notional fixation of pay but they would not be entitled to arrears of pay etc. since they had not actually shouldered the higher responsibilities of the promoted posts.

6. There shall be no order as to costs.



(S.P. Biswas)
Member (A)


15.4.99

(T.N. Bhat)
Member (J)

/gtv/