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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI
OA 2494/98

New Delhi this the 24th day of December, 1999

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

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

1. Shri Subhash Chandra, S/O Shri Late H.L.Gupta,
Age about 57 years and working as Dy. Director,
Office of the DC(Handicrafts), Ministry of Textiles,
New Delhi and resident of C-37, Pushpanjali Enclave,
Pitam Pura, Delhi-110034.

2. Shri G.K.Asthana, S/O Late Shri R.N.Asthana,
Age about 48 years and working as Dy. Director,
Office of the DC(Handicrafts), Ministry of Textiles,
New Delhi and resident of K-III/22, Sector-II, DIZ Area,
Udyan Marg, New Delhi-110001.

3. Shri Jagdish Prasad, S/O Shri Moji Ram,
Age about 48 years and resident of 19/D, CPWD Housing
Complex, New Delhi-110005 and working as Assistant
Director(NR), Office of the DC(Handicrafts), West Block No.VIII,
R.K.Puram, New Delhi.

Applicants

(By advocate Sh.R.Venkatramani Sr.Counsel
with Sh.Gyan Prakash)

1. Union of India through
Secretary, Ministry of Textiles, New Delhi-1
Udyog Bhawan

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2. Development Commissioner(Handicrafts),
Ministry of Textiles, West Block No.VII, R.K.Puram, New Delhi.
3. Secretary, UPSC, Shahjahan Road,
New Delhi - 110001.
4. Secretary, Department of Personnel,
North Block, New Delhi.
5. Shri S.K.Sehgal, Dy. Director,
C/O Office of the DC(Handicrafts),
B-46, (J.Park), Mahanagar Extension,
Lucknow(UP) - 226006.
6. Shri V.V.S. Suryanarayana,
Assistant Director, C/O
Office of the DC(Handicrafts),
Marketing and Service Extension Centre,
Lambaline, Junglighat,
P.O. Portblair-744103. (Andaman & Nicobar Island)
7. Shri S.K.Jana, Assistant Director, C/O
Office of the DC(Handicrafts),
West Block No.VII, R.K.Puram,
New Delhi - 110066.

Respondents

(By Advocate Sh.K.R.Sachdeva for official
respondents)

(By Advocate Sh.S.M.Rattanpaul for pvt.
respondents)

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ORDER

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicants, three in number, are aggrieved by the orders passed by the respondents dated 23.3.1998, 22.4.1998 and 4.5.1998 promoting Respondents 5,6 and 7 and giving them regularisation as Handicrafts Promotion Officers (HPOs) w.e.f. 22.3.1976, 16.5.1977 and 31.3.1976, respectively. They have also impugned the amendment of the seniority lists of the HPOs between 1995-1998 and promotions given to Respondents 5,6 and 7- Respondent 5 as Assistant Director (Handicrafts) (AD(H)) from 14.5.1980 and Deputy Director (Handicrafts) (DD(H)) from 1.5.1990, and Respondents 6 and 7 as AD(H) from 15.5.1980 and 14.5.1980, respectively.

2. The applicants have submitted that they have been promoted and appointed as HPOs between 1978-1980 in accordance with the Recruitment Rules whereas the three private respondents were appointed as Junior Field Officers (JFOs) and HPOs on ad hoc basis in 1976-1977 without following any Rules. However, they have stated that at least two of the respondents had approached the Tribunal and the Hon'ble Supreme Court. They are aggrieved by the respondents' action in amending the seniority list of HPOs and have alleged that this is in violation of the principles of natural justice as no notice was given to them. According to them, they have stated that they were not parties in the cases in which the respondents were applicants. According to ^{filed by Respondent 5.} them, the Supreme Court in the appeal (CA No.3009/89) in its order dated 13.9.1994 has not given any directions on the question of determination of his seniority vis-a-vis HPOs like them who were recruited as HPOs in accordance with the Recruitment Rules.

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3. Shri Venkatramani, learned counsel, has submitted that the applicants who were appointed as HPOs between 1978-80 and later promoted as ADs (H) and DDs(H) on regular basis cannot be depressed in their seniority in the manner the respondents have done. He has further submitted that the respondents have never circulated the amendments in the seniority list of HPOs/ADs issued on 20.11.1995, 27.3.1998 and 13/18.5.1998 to the applicants and other affected persons which has necessitated the applicants and their Association to make representations asking for their copies. Their contention is that they have never received the copies of the amended seniority lists and hence they could not make any representations earlier. The applicants have prayed for quashing of the amendment of the seniority lists of HPOs/ADs issued by the respondents' order dated 20.11.1995, 27.3.1998 and 18.5.1998. MA 1436/99 filed by the applicants for amendment in the prayer clause had been allowed.

4. We have seen the reply filed by the official respondents as well as private respondent 5 and heard Shri K.R. Sachdeva and Shri S.M. Rattanpaul, learned counsel.

5. The official respondents have stated that the office of the Development Commissioner (Handicrafts) had recruited approximately 87 JFOs on ad hoc basis during the period from 1975 to 1977 in view of the massive expansion programmes of the planned schemes. The posts were to be filled 50% by promotion. Respondent 5, Shri S.K. Sehgal, was appointed as JFO on 22.3.1976, Respondent 6, ^{and} Shri V.V.S. Suryanarayana was appointed on 16.5.1977 and they continued to hold the post on ad hoc basis for about twenty two years. Shri Sehgal had filed an application in the Tribunal (OA

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175/86 -Chandigarh Bench) for regularisation of his services in the grade of JFO which was redesignated as HPO in 1979. The prayer was disallowed by the Tribunal against which he had filed the aforesaid SLP in the Supreme Court. The Supreme Court by its order dated 13.9.1994 had directed that the appellant shall be treated as a regular substantive holder of the post of HPO and his total service shall be taken into account for all purposes (emphasis added) (Annexure R-IV). In compliance of the Supreme Court's order, respondents had regularised his services in the grade of HPO w.e.f. 22.3.1976. As a consequential benefit, he was considered for promotion to the next higher grade of AD (H) by holding a review DPC for the year 1980 in terms of the Recruitment Rules notified in 1978. He was, however, not included in the panel for the year 1980 in view of the grading obtained by him. He was considered for the vacancies of the year 1982 and was included in the panel for the said year and appointed as AD(H) w.e.f. 31.5.1984 by order dated 8.12.1995. Aggrieved by this order, Shri Sehgal had filed another application (OA 1258/95) in CAT-Chandigarh Bench for ante-dating his promotion with effect from 1980. The Tribunal had directed that the review DPC should be held for giving him appropriate promotion and seniority as AD(H) and thereafter as DD(H). In pursuance of the Tribunal's order, another review DPC had been held and subsequently the impugned orders have been passed promoting him as AD(H) w.e.f. 14.5.1980 by order dated 23.3.1998 and as DD(H) w.e.f. 1.5.1990 by order dated 6.10.1998. Similarly, the respondents have given the details of the application which was filed by Respondent 6, Shri V.V.S. Suryanarayana, another JFO, who was appointed on ad hoc basis in the year 1977. In accordance with the orders passed by the Tribunal (Hyderabad Bench) (Annexure VI), the respondents took further

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action and he was promoted as AD(H) w.e.f. 15.5.1980. In case of Respondent 7, Shri S.K. Jana, another JFO who was recruited in 1976, they have considered his case as similar to those of S/Shri S.K. Sehgal and V.V. Suryanarayana. He was also promoted in furtherance of the review DPC's recommendations to the post of AD(H) w.e.f. 14.5.1980. Respondents have submitted that the services of these three officials, namely, Respondents 5-7, have been regularised on the basis of the Apex Court order dated 13.9.1994 and the Tribunal's orders. According to them, none of the applicants have held the post of JFO on regular basis prior to the appointment of the respondents 5,6 and 7 to that post. They have also submitted that the applicants S/Shri Subhash Chandra and G.K. Ashtana were promoted from the feeder cadre post of Statistical Assistant/Investigator to the post of JFO whereas Respondents 5,6 and 7 were appointed directly as JFOs which post has been redesignated as HPOs. They have also clarified that as the applicants did not possess three years regular service in the grade of HPO in 1980, they were not entitled to be considered in the review DPC along with Respondents 5,6 and 7 for appointment as AD(H) in pursuance of the orders of the Supreme Court and the Tribunal (supra). As regards the impugned seniority lists, respondents have clarified that this was required to be done on the basis of the court judgements when Respondents 5-7 had to be regularised as HPOs and given the consequential benefits.

6. Shri S.M. Rattanpaul, learned counsel for Respondent 5, has submitted that the O.A. is hopelessly barred by limitation as the applicants have challenged the revised seniority lists after more than three years. He has further submitted that the seniority list of HPOs which have been issued earlier upto 1988 had to be replaced in

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implementation of the Supreme Court's order dated 13.9.1994.

He has also drawn our attention to the order dated 20.11.1995 issued by the respondents in which it has been clearly stated that this has been done in pursuance of the Supreme Court's order in Civil Appeal No. 3029/89 in the case of S.K. Sehgal Vs. Union of India & Ors. and regularising him as HPO w.e.f. 22.3.1976. This order has been marked to all the concerned officers and sections. Similarly, the order dated 6.11.1995 appointing Shri S.K. Sehgal, Respondent 5 as HPO in a substantive capacity w.e.f. 1.6.1984 has also been marked to the concerned officers. Learned counsel has, therefore, contended that the applicants cannot state that they were not aware of these orders which have been issued as far back as in 1995 and they could not challenge either the promotion orders in respect of Respondents 5-7 or the revised seniority lists which had been issued in pursuance of the aforesaid court orders. Respondents have, therefore, prayed that the O.A. may be dismissed.

7. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

8. The Supreme Court in S.K. Sehgal Vs. Union of India (Civil Appeal No. 3009/89) had directed that:

"the appellant shall be treated as a regular substantive holder of the post of HPO in Marketing and Service Extension Centre, Ministry of Textile. We make it clear that the total service of the appellant shall be taken into consideration for all purposes, including post retiral benefits".

(Emphasis added).

This order was passed on 13.9.1994. In the light of this order, we are unable to agree with the contentions of the learned counsel for the applicants that the total service of the appellant should be considered only for retiral benefits but not for purposes of promotion and seniority. As

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Respondent 5 has been directed to be regularised as HPO w.e.f. "18.3.1976" i.e. the date from which he has been continuously holding that post, the respondents had to comply with this order of the Apex Court and consider him for further promotions as AD(H) and DD(H) by holding review DPCs in accordance with law. The order dated 20.4.1995 passed by the respondents in respect of Respondent 5 in pursuance of the Supreme Court order dated 13.9.1994 has been marked to all the concerned officers in the office of Development Commissioner (Handicrafts) - Respondent 2, the subsequent order passed on 6.11.1995 in respect of the same officer has also been similarly marked and we have no reason, therefore, to reject the contention of the respondents that this O.A. is highly belated.

9. Apart from the above reason, even on merits we find no substance in the contentions raised by the applicants that the respondents could not have revised the seniority lists or issued the promotion orders of Respondents 5 -7 in terms of the judicial pronouncements they have obtained in their favour. In the case of Respondent 7, S.K. Jana, although he might not have litigated earlier, it is settled law that Respondents cannot deny the benefits to him as he is similarly situated as the other two private respondents. The contention of the applicants that the order of the Supreme Court dated 13.9.1994 has not given any specific directions regarding seniority and, therefore, there was no need to revise the seniority list begs the question because the Apex Court itself had directed that the appellant shall be treated as a regular substantive holder of the post from the date he was continuously holding the post and the total service of the appellant should be taken into consideration for all purposes. That being so, he would be entitled to claim his

seniority as HPO w.e.f. 22.3.1976, that is the date from which he was holding the post on ad hoc basis as stated in the order dated 20.4.1995 with all benefits which flows from that order. In the circumstances of the case, we find no infirmity in the orders passed by the respondents promoting the private respondents 5-7 in accordance with the review DPCs held by them and in pursuance of the orders of the Supreme Court and the Tribunal passed in their favour. The judgement of the Supreme Court in M.A.Haque's case (supra) does not appear to be relevant in the facts and circumstances of this case.

10. Therefore, from the facts given above, it is seen that the respondents have taken action to give benefits of the judgements of the Supreme Court as well as a number of the judgements of the Tribunal obtained by the private respondents which cannot be faulted and in accordance with the recommendations of the review DPCs. In the facts and circumstances of this case, we find no merit in the contentions raised by the applicants.

11. In the result, for the reasons given above, the application is dismissed. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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

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