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Central Administrative Tribunal
Principal Bench: New Delhi

OA No.2252/95

New Delhi this the 31st day of July, 1996.

Hon'ble Mr. S.R. Adige, Member (A)
Hon'ble Dr. A. Vedavalli, Member (J)

Sh. Manohar Lal,
Jr. Stenographer in the
Dept. of Tourism,
Transport Bhavan,
Parliament Street,
New Delhi-110001.Applicant

(By Advocate Sh. S.D. Kinra)

Versus

UNION OF INDIA, THROUGH:

1. Secretary (Tourism),
Transport Bhavan,
Parliament Street,
New Delhi.
2. The Director General (T),
Department of Tourism,
Transport Bhavan,
Parliament Street,
New Delhi.
3. Sh. L.N. Arora,
Sr. Stenographer,
Department of Tourism,
Parliament Street,
Transport Bhavan,
New Delhi.Respondents

(By Advocate Sh. M.K. Gupta)

ORDER (Oral)
(Hon'ble Mr. S.R. Adige)

We have heard Sh. S.D. Kinra, learned counsel for the applicant and Sh. M.K. Gupta, learned counsel for the respondents.

2. Consequent to the post of Senior Stenographer falling vacant, respondents promoted respondent No.3, Sh. L.N. Arora on ad hoc basis vide impugned order dated

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28.9.94 (Annexure A-1), although admittedly he was junior to the applicant. In this connection respondents' counsel Sh. M.K. Gupta has very fairly conceded that as per paragraph 5.8 of the respondents' reply this promotion was made purely on the basis of the relative merits of Sh. Arora vis-a-vis the applicant, *although* paragraph 4 (iii) of D.O.P.T's O.M. dated 30th March, 1988, reproduced in the Swamy's Compilation on 'Seniority and Promotion' in Central Government Services (Third Edition) provides that even in the case of ad hoc promotions, the principle of seniority-cum-fitness should have been followed. In other words, the principle of seniority should have been adhered to and the applicant's junior should have been promoted only if the applicant was found to be unfit for promotion. In the present case, there is no finding which was brought to our notice that the applicant was found unfit for promotion, and in the absence of any such finding the applicant was entitled to have been promoted as Senior Stenographer w.e.f. 28.9.94.

3. Meanwhile, we understand that the applicant has retired on superannuation on 31.12.95.

4. Under the circumstances, the OA is allowed and succeeds to this extent.

that the respondents should notionally fix the applicant's pay in the grade of Senior Stenographer w.e.f. 28.9.94. The applicant will not be entitled to any arrears of pay consequent to such notional pay fixation, but the respondents should ~~recalculate~~ ^{recalculate} the applicant's retiral benefits on the basis of such notional pay fixation and pay the difference ^{in retiral benefits} to the applicant w.e.f. 31.12.95, within a period of three months from the date of receipt of a copy of this judgement. No costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member (J)

S.R. Adige
(S.R. Adige)
Member (A)

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