

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.365/1995

New Delhi, this the 8th day of September, 1999
HON'BLE MR. JUSTICE R.G.VAIDYANATHA, VICE CHAIRMAN (J)
HON'BLE MR. J.L.NEGI, MEMBER (A)

Sh. C.P.Saxena, aged 44 years, S/O Sh.
R.N.Saxena, J-234, Patel Nagar-I,
Ghaziabad (UP) ---Applicant.

(By Advocate: Mr. O.P.Sood)

VERSUS

1. Union of India (Service) through
Secretary, Ministry of Finance,
Dept. of Expenditure, Govt. of
India, North Block, New Delhi.

2. Deptt. of Personnel & Training,
Ministry of Personnel P.G. &
Pensions, Loknayak Bhawan, G.O.I.,
New Delhi.

---Respondents.

(None for respondents)

O R D E R

By Hon'ble Mr. J.L.NEGI, MEMBER (A):

The paryer in this OA for direction to the
respondents to fix the seniority of the applicant at
the appropriate place of the seniority list of UDCs in
Ministry of Finance considering the service of LDC
rendered and above such LDCs of Finance Department who
had lesser length of service as compared to him.

He further seeks to quash impugned OM
No.A-23014/1/93-Admn.II, dated 25.1.1994 vide which the
rejection of his representation to the appropriate
authority, was communicated to him.

2. The applicant joined the Ministry of
Finance as LDC on 12.7.71 through open competition and
was transferred to the Ministry of Finance on promotion

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to the grade of UDC under the zoning scheme against long term vacancies in the CSCS of Ministry of Finance. At present, the applicant is working in the higher grade of Assistant in the same Ministry. The applicant who is at Sr.No.259 of seniority list as on 1.7.91, has challenged the seniority of Smt. Trehan (Sr.No.185) on the ground that she was junior to him in the CSCS cadre of LDCs when they were appointed through open competition and allotted to different Ministries.

3. Sh. O.P.Sood, learned counsel for applicant submitted that promotion from the post of LDC to UDC is on seniority-cum-merit basis and thus, the service rendered on the lower post of LDC should have been considered while fixing the seniority of the applicant. It was further contended that the applicant was placed below to those UDC who were junior to him in the CSCS cadre of LDCs which was in contravention of the zoning scheme. The transfer of the applicant from the Minstry of Defence was under the scheme envisaged by the Govt. of India and in the public interest and, therefore, it was wrong on the part of the Ministry of Finance to ignore the service rendered by the applicant on the lower post in the parent department. Learned counsel for the applicant also stated that the applicant made representations to the respondents on 14.11.1993, 12.1.1994, 15.1.1994 and 18.1.1994 but these were not considered and rejected vide Annexure A-1. However, we find a copy of representation dated 1.1.1994 only in the OA.

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4. Although, no counsel for respondents was present to assist us, however, from the reply submitted by the respondents, it transpires that the respondents have challenged the present OA as not maintainable. It was further stated in the reply that this OA is not within the limitation period as the cause of action arose way back on 28.9.1984 when this seniority list of UDCs was circulated initially. The applicant did not challenge the seniority list of 1984. The name of the applicant was shown at Sr.No.495 in the seniority list as on 1.9.1984 issued on 28.9.84 (Annexure R-I). Thereafter, his name was also shown in subsequent seniority list issued in the years 1987 and 1991 and the same were also circulated to all concerned. The applicant did not challenge this earlier seniority list and it was only after the seniority list as on 1.7.91 (Anneuxre A-7 of the OA) was issued that the applicant represented for refixing of his seniority. Hence, the OA is liable to be dismissed.

5. It was also contended that the applicant has not impleaded the persons over whom he has claimed seniority and, therefore, the application suffers from non-joinder of necessary parties. Coming to the merits of the case, the respondents have stated in the reply that the applicant has sought relief with the pre-supposition that the LDCs/UDCs grade of CSCS are centralised. This is contrary to the provisions of the rules according to which the said grades are decentralised, each cadre being a separate identifiable entity in the matter of making appointments, promotion

etc. within the cadre. In fact, the Central Secretariat Clerical Service was decentralised w.e.f. 1.11.1962 in order to ensure better personnel management vide Rule 2 of the CSCS Rules, 1962. Thereafter, the working of the decentralised scheme was further reviewed and zoning scheme was introduced for minimising disparities in promotion amongst the different cadres. Under this rule, movement of officials from one cadre to another cadre was effected for promotion where the number of official concerned within the zone, were not sufficient for filling vacancies available in the cadre. Such transfers were made with the consent of the person concerned and the applicant had given his consent accordingly. It is further contended that the seniority of the officials who are transferred from their parent cadre to other cadres in the grade of UDC is regulated by para 3 (3) of the CSCS Regulations 1963, which is as under:-

"A member of the service appointed to the UDC grade of any cadre on transfer from another cadre shall be assigned seniority in the UDC grade in a new cadre below all existing temporary officials of the grade in that cadre."

6. We have heard the submissions made by the learned counsel for the applicant and also gone through the submissions made by the respondents in their reply to the OA. The seniority list of UDCs of the Finance Ministry as on 1.9.1984 was issued on 28.9.1984 (Annexure R-I). The applicant never made any representation or objection in pursuance of the issue of this seniority list which shows that the applicant

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had no objection at that⁽⁵⁾ time. Subsequent seniority list was stated to have been issued in 1987 and there again the applicant remained silent. It was only after the seniority list as on 1.7.91 (Annexure A-7) issued in that the applicant made representation for refixing his seniority. There is no doubt that the cause of action arose way back in 1984 after the issue of first seniority list i.e. on 28.9.84. The applicant took more than 10 years to file the present OA and there is no reasonable cause to condone the delay.

The applicant on the other hand has not impleaded the persons over whom he has claimed seniority. The application, therefore, suffers from non-joinder of necessary parties.

7. Even coming to the merits of the case, the applicant has no ground. The applicant who is at Sr.No.495 as per seniority on 1.7.91 was promoted as UDC on 25.3.81 whereas Smt. Shashi Trehan who is at Sr.No.406 was promoted on 1.7.80. When his actual promotion is 25.3.81, how can he claim the seniority over Smt. Shashi Trehan and others who were promoted almost a year earlier?

8. Under the circumstances, we do not find any reason to interfere in this case. In the result, the OA is dismissed. No order as to costs.

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8/9/99
(J.L.NEGI)

MEMBER (A)

R.G. Vaidyanatha
8/9/99
(R.G. VAIDYANATHA)
VICE CHAIRMAN (J)

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