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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 997/95

New Delhi this the 8th day of October, 1999

HON'BLE MR.JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN
HON'BLE MRS. SHANTA SHAstry, MEMBER (A)

1. A.K. Samajpati,
Son of Shri R.K. Samajpati,
R/o Q.No. 730, Sector 2,
R.K.Puram, New Delhi.
2. Ranjan Dhali,
Son of Late N. Dhali,
R/o Q.No. 180-K,
C-Type, Aram Bagh,
New Delhi-110 055.
3. Satyapal Singh,
Son of Late Ishwar Singh,
R/o 755-D, CPWD Colony,
Vasant Vihar, New Delhi.
4. Ranjit.
Son of Late Shiv Lal,
R/o 424, O-Block,
Sewa Nagar,
New Delhi.
5. G.C. Biswas,
Son of Shri Manohar Biswas,
R/o 516 M-Block,
Sewa Nagar, New Delhi.
6. G.C. Biswas,
Son of Shri B.M. Biswas,
R/o 656 Sector-7,
R.K.Puram, New Delhi.
7. Priya Lal Biswas,
S/o Late Shri Banomai Biswas,
R/o Jhuggi No. S-1780, 33,
Near Vihar Bhavan,
New Delhi.
8. Parshuram Bag,
Son of Shri Jai Ram,
R/o 212-K, Sewa Nagar,
New Delhi.
9. G.C.Sardar,
Son of Late H.L. Sardar,
R/o G-436 Sewa Nagar,
New Delhi.
10. N.K. Rao,
Son of Shri N. Narsimha Rao,
R/o Office CAO-A, 5-B,
DHQ, New Delhi.

11. P.C. Panda,
Son of Late Lal Panda,
Q.No. 1309, Lodhi Complex,
New Delhi.

12. Kali Pada Poddar,
Son of Shri G.C. Poddar,
R/o C-426, Sewa Nagar,
New Delhi.

13. Ram Ratan,
Son of Shri Kuhaiya,
R/o Srinivasupuri,
New Delhi.

14. M.C. Ray,
Son of Shri K.M. Ray,
R/o Q.No. 1054, Sector-1,
R.K. Puram, New Delhi.

15. C.M. Nag,
Son of Late Pandit Nag,
R/o 37-F, Aram Bagh,
New Delhi.

16. P. Nayak,
Son of Late B. Nayak,
R/o 12/153 Prem Nagar,
New Delhi.

17. S.K. Das,
Son of Shri G.C. Das,
R/o Sector II, Q.No. 204,
R.K. Puram, New Delhi.

18. Siya Ram,
Son of Late Shri Tej Ram,
R/o Q.No. 426,
Sewa Nagar, New Delhi.

19. Bhagwan Nayak,
Son of Shri Arjun Nayak,
R/o C-309, Sewa Nagar,
New Delhi.

20. Ashutosh Pal,
Son of Late Shri Santosh Pal,
R/o Q.No. 1840 Sector III,
Pushp Vihar, New Delhi.

21. Jagdish Singh,
Son of Shri Munish Singh,
R/o KQ.No. 402 Ali Ganj,
Lodi Road, New Delhi.

22. Bal Chand Goliya,
Son of Shri B. Goliya,
R/o C-580, Netaji Nagar,
New Delhi.

23. Sonu Ram,
Son of Shri Sona Dhar,
R/o C-580 Netaji Nagar,
New Delhi.
24. S.C. Mishra,
S/o Shri P.M. Mishra,
R/o Q.No. M-30, Sewa Nagar,
New Delhi.
25. Ram Nath Devgan,
S/o Shri S.N. Devgan,
R/o Q.No. 1122, Sector 2,
R.K. Puram, New Delhi.
26. Bal Bhadra Chatriya,
S/o Shri Kheja Chatriya,
R/o F-113, Sewa Nagar,
New Delhi.
27. Ignesh Hiyal,
Son of Shri Khristo Hiyal,
R/o Q.No. 9-F, B-Block,
Aram Bagh, New Delhi.
28. A.C. Mandal,
Son of Shri N.K. Mandal,
R/o Q.No. 722, Pushp Vihar,
Sector-7, M.B. Road,
New Delhi.

(All the applicants are working in the office of
J.S. (Trg.) and CAO, C-II, Hutmant, DHQ, P.O.,
New Delhi.)

(By Advocate: Mrs. Rekha Sharma)

-Versus-

1. Union of India, Through
Secretary, Ministry of Defence,
South Block, New Delhi.
2. Joint Secretary (Trg.) and
CAO, C-II, Hutmant,
DHQ, P.O. New Delhi.

(Shri Trilochan Raut, Sr. Admin Officer, Dept. Representative)
O R D E R

MRS. SHANTA SHAstry, MEMBER (A)

The applicants, 28 in number, having the same cause of action have jointly approached this Tribunal being aggrieved by the non-implementation by the respondents of the Government decision circulated vide OM dated 13.9.1991 of the Ministry of Finance on career advancement of Group 'C' and Group 'D'

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employees. They have prayed to direct the respondents to give them ~~in~~ situ promotion suo moto and also to give all the consequential benefits w.e.f. the date of stagnation.

2. The applicants were appointed as Peons in the D.N.K. Project under the Ministry of Finance. On completion of the Project in 1988, they were declared surplus along with other employees and were posted to different Ministries. The applicants were posted in the Ministry of Defence under Respondent No. 2 in September, 1988. The applicants reached the maximum of their pay scale of Rs. 750-940/- and thereafter they had earned pay protection and stagnation increments which too were exhausted in 1990. They are stagnating at Rs. 940/- since 1987. They have been demanding in situ promotion in terms of the Government's decision in O.M's dated 13.9.1991, 25.5.1992 and 20.4.1993. However, the respondents informed vide thier letter dated 22.10.1992, that the applicants cannot be considered for promotion as the seniors in the respondent's organisation are not yet promoted. The applicants made several representations but their request has not been granted.

3. The Government of India introduced a scheme to ensure at least one promotion in the career to each Group 'C' and Group 'D' employee vide Government of India, Ministry of Finance, Department of Expenditure, OM NO. 10(i)/E-3/88 dated 13th September, 1991. As per the Scheme employees a) who are directly recruited to a Group 'C' or Group 'D' post b) whose pay on appointment to such a post is fixed at the minimum of the scale and c) those who have not been promoted on regular basis even after one year on reaching the maximum of the scale of such post are eligible for the benefits under

the scheme. Certain clarifications about the applicability of the scheme were issued vide OM dated 25.5.1992 and OM dated 20.4.1993. Paras 7 of the OM dated 25.5.1992 clarified that persons initially appointed to a post on direct recruitment basis but subsequently transferred to different posts carrying the same pay scale are also eligible for in situ promotion in terms of OM dated 13.9.1991 from the date a directly recruited person junior to him in the new organisation whose pay was fixed at the minimum of the scale becomes eligible for promotion. The clarification issued vide OM dated 20.4.1993 further explained that persons deployed after being declared surplus may be considered for in situ promotion one year after reaching the maximum of the scale of pay provided all his seniors have been promoted. In view of these OMs the applicants who were posted to the office of Respondent No. 2 under the scheme for deployment of surplus employees are also covered under the scheme. However, based on these very clarifications, the Respondent No. 2 concluded that the applicants are not eligible for in situ promotion before their seniors and rejected their claims.

4. The contention of the applicants is that they have put in around 30 years of service and they are senior to other employees in the Respondent No. 2's organisation and are hence eligible for promotion in terms of the OM dated 13.9.1991 of the Ministry of Finance. The applicants claim that their other colleagues who were redeployed in some other Ministries i.e. the Ministry of Food, Planning Commission, PMO etc. have been given in situ promotion. According to the applicants, the respondents have wrongly interpreted the policy of the Government and have denied the benefit to them.

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5. Shri Trilochan Raut, the Departmental representative of Respondent No. 2, stated that the scheme of in situ promotion cannot be extended to the applicants at this stage because they are not senior to other employees of Respondent No. 2. Though the surplus staff redeployed are covered by OMs dated 25.5.1992 and 20.4.1993, they are eligible only from the date a directly recruited person junior to them in the new organisation i.e. in the office of Respondent No. 2 becomes eligible for promotion provided all their seniors have been promoted. The respondents have also contended that the OA is barred by limitation. The applicant's request was rejected on 22.10.1992. Therefore, the cause of action, if any, arose on 22.10.1992. The applicants have also not made any specific prayer for condonation of delay.

6. We are not inclined to accept that the OA is barred by limitation as the cause of action is continuous. Hence, the applicant's case is examined on merits.

7. The question is one of seniority and the eligibility for in situ promotion of the redeployed surplus staff. This has to be examined in the light of the scheme for the redeployment of surplus and retrenched employees of the Central Government which was introduced in 1966 and which has undergone several changes over the years. The Ministry of Personnel, Public Grievances and Pensions Department of Personnel and Training has issued a Handbook containing all important orders and instructions issued by the Government from time to time on this subject. Separate rules have been made and a consolidated Central Civil Services (Redeployment of Surplus Staff) Rules 1990 were notified on 28.2.1990, superseding the earlier rules.

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According to the scheme the past service rendered prior to redeployment should not count towards seniority in the new organisation/new post which a surplus employee joins after he is redeployed. Such employees are to be treated as fresh entrants in the matter of their seniority, promotion etc.

8. The question of seniority and eligibility for promotion and redeployment of surplus staff in the Department to which they have been redeployed have been considered by some Benches of this Tribunal. In view of divergence of opinion, the Hon'ble Chairman had referred the question to a larger Bench. The larger Bench held in the case of P.K. Dass Vs. Union of India and another in OA 826/98 decided on August 21, 1991 [(1992) 19 ATC 443(FB)] that the seniority of the staff who are rendered surplus and are redeployed is to be reckoned in the new organisation/new posts from the date of his joining the new organization/new post and not from the date of his original entry into government service. The condition of service, the legal rights and the legitimate expectations of the existing employees will be adversely affected, if the past service rendered by redeployed employee is reckoned as regular service in the new Department for the purpose of his promotion in that Department. This order of the larger Bench of this Tribunal squarely covers the issue and the case of the present applicants.

9. In view of this, we hold that the applicants are not eligible for in situ promotion under the OM dated 13.9.1991 of the Ministry of Finance till their seniors are promoted. The OA fails and is, therefore, dismissed. No costs.

In ante f-
(Mrs. Shanta Shastray)
Member (A)

Undepinlary
(V. Rajagopala Reddy)
Vice Chairman (J)