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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA 172/96

New Delhi this the 9th day of May, 1997

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

Hon'ble Shri R.K. Ahooja, Member (A)

Shri Balwant Singh Solanki,
s/o Shri (Late) Jandu Ram,
R/O Village : Ba prola,
P.O. Najafgarh, New Delhi-43

... Applicant

(By Advocate Shri B.B. Raval)

Vs.

1. Union of India
through the Cabinet Secretary,
Govt. of India,
Rashtrapati Bhawan, New Delhi-110001

2. The Secretary,
Research and Analysis Wing,
Cabinet Secretariat, Govt. of India,
Room No. 8-B, South Block,
New Delhi-110011

3. Shri Anil Kumar,
Field Assistant,
Now working as Deputy Field Officer,
Research and Analysis Wing,
C/O Respondent No. 2.

4. Shri S.S. Nair,
Field Assistant,
Now Working as Deputy Field Officer,
Research and Analysis Wing,
C/O Respondent No. 2.

(By Advocate Shri M.K. Gupta)

... Respondents

ORDER (ORAL)

(Hon'ble Shri R.K. Ahooja, Member (A))

The applicant, who has been working in the Research and Analysis Wing, Cabinet Secretariat, is aggrieved by the rejection of his representation by the respondents regarding retrospective promotion vide Memo. dated 9.11.95 (Ann.A). The Respondents state that the matter has already been examined in the light of the judgment in OA 368/90 dated 11.8.94. They further submit that review application as well as the SLP which had been filed by the applicant have also been rejected and, therefore, the present application is barred by the principle of res-judicata and

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the principle of estoppel.

2. We have heard the learned counsel for both the parties. We find that in the order of this Tribunal in OA 368/90 dated 11.8.94, the Tribunal had observed as follows:-

"Further, it is observed that the applicant never filed any representation before the authorities stating the name of that particular junior who was not qualified but has been promoted and the applicant's case has been overlooked. If any junior person has been considered fit for promotion and the applicant has not been considered fit for promotion, it will not give any cause of action to the applicant. However, if it is a case of non-consideration, then the applicant has a right to be considered. No order can be passed in this OA. However, the applicant can move a representation to the authority concerned and the authority will decide the matter. The OA stands disposed of. No costs."

In pursuance of this observation, the applicant states that he had filed a representation to the respondents on 2.11.95 (Ann.A.25) to which the impugned Memo. dated 9.11.1995 (Ann.A) has been given in reply. Learned counsel for the respondents submits that the applicant had in fact filed ^a representation on 10.8.88 (Ann.A.18) and the same was disposed of by a detailed order of the respondents dated 30.9.88 (Ann.A.19) and therefore, ^{he} ~~submit~~ ^{that} the opportunity granted to the applicant to file representation had already been availed of by him and hence there is no need to file a fresh representation. We are unable to agree with the arguments of the learned counsel for the respondents because the Tribunal by order dated 11.8.1994 have specifically given ^a fresh opportunity to the applicant and it was incumbent upon the respondents to consider his representation and to pass a speaking and reasoned order thereon which they have failed to do so. The Memo. dated 9.11.1995 ^{only} states that the competent authority has ruled that action taken by office was in accordance with the prescribed rules and no discrimination was done while examining the issue.

3. In the facts and circumstances, ^{of the case} we quash the Memo. dated 9.11.1995 (Ann.A) and direct the respondents to pass a

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reasoned and speaking order on the representation filed by the applicant within a period of three months from the date of receipt of a copy of this order.

O.A. is disposed of as above. No order as to costs.

R. K. Ahooja
(R.K. Ahooja)
Member (A)

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

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