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Central Administrative Tribunal, Principal Bench

Original Application No. 1986 of 1996

New Delhi, this the 9th day of March, 2000

Hon'ble Mr. Justice Ashok Agarwal Chairman
Hon'ble Mr. V.K. Majotra, Member (Admnv)

T.N. Kapoor,
S/o late Shri K.L. Kapoor,
R/o 628, Laxmi Bai Nagar,
New Delhi-23.

Applicant.

(None present)

Versus

Union of India through

1. Secretary (R),
7, Bikaner House Annexe,
Shahjahan Road,
New Delhi-110011.

2. Secretary,
Department of Personnel & Training,
North Block,
New Delhi-110001.

... Respondents.

(None present)

O R D E R (Oral)

By Justice Ashok Agarwal, Chairman.-

The applicant, who is working as Under Secretary (Co-ordination), Cabinet Secretariat, New Delhi, was initially appointed as Stenographer Gr.II in the Intelligence Bureau in 1958. His services were transferred to Cabinet Secretariat (R&AW) in September, 1969. He took over as Senior Personal Assistant w.e.f. 16.7.1986 and was given deemed date of promotion w.e.f. 1.10.1981 under Next Below Rules.


2. There were 6 sanctioned posts of Private Secretaries and 85 posts of Senior Personal Assistants in the Cabinet Secretariat (R&AW) in October, 1986 when

recommendations of the 4th Pay Commission were approved and given retrospective effect from 1.1.1986. The pay scales of the post of Private Secretary and Senior Personal Assistant were as under:

Private Secretary - Rs.775-1200
Senior Personal Assistant - Rs.650-1040

3. The pay scales of both these posts were revised by the 4th Pay Commission to Rs.2000-3500. Though the pay scales of both the aforesaid posts were identical, the said posts were distinct. The post of Senior Personal Assistant was the feeder grade for promotion to the post of Private Secretary on the basis of selection.

4. A Departmental Promotion Committee (DPC) meeting was held in March, 1989 for filling up 5 vacant posts of Private Secretaries from amongst the eligible Senior Personal Assistants. A Senior Personal Assistant became eligible for promotion as Private Secretary after putting in 6 years of service in the post of Senior Personal Assistant. 15 Senior Personal Assistants, including the applicant were considered for promotion to the post of Private Secretary. Certain candidates were recommended for promotion to the post of Private Secretary and the applicant was not so recommended. By the present O.A., the applicant, inter alia, seeks to impugn the recommendations and promotions granted in pursuance of the DPC meeting held in March, 1989. Other reliefs which are contained in the O.A. are based on the challenge to the aforesaid promotions. In our



judgement, the present O.A. which seeks to impugn promotions granted in 1989 by filing the present O.A. in 1996 is hopelessly barred by limitation.

5. Even on merits, if one has regard to the events which have taken place, the applicant has no justifiable grievance which can be vindicated in the present proceedings. In substance, by the present O.A., the applicant claims to impugn promotions granted to various candidates at different stages. He also claims that he was entitled to have been granted promotion from earlier dates and in preference to those who have been earlier promoted.

6. We have already narrated the events till the stage when the DPC in its meeting held in March, 1989 had recommended promotions of several other candidates when the applicant was not found suitable for promotion to the grade of Private Secretary.

7. The post of Private Secretary and Senior Personal Assistant came to be merged by virtue of Government of India Notification No. A-12018/19/90-DO.I dated 21.4.1992. Hence, during the period 1.1.1986 when the pay scales of Private Secretary and Senior Personal Assistant were equated to Rs.2000-35000, in pursuance of the recommendations of the 4th Pay Commission and 21.4.1992 when the aforesaid posts of Private Secretary and Senior Personal were merged, the said posts continued to be distinct. The post of Senior Personal Assistant was a feeder post for promotion to the post of Private Secretary. Promotion to the post of Private

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Secretary was not on the basis of seniority ~~and~~ the same was a selection post. A Senior Personal Assistant required a standing of 6 years service before he could be eligible for being considered for the post of Private Secretary. It is only w.e.f. 21.4.1992 when the aforesaid two posts were merged. After merger, Senior Personal Assistants who had already been promoted to the posts of Private Secretary ~~would~~^{ed} rank en-block senior to those who had not been so promoted and this was in pursuance of a decision taken by the Department of Personnel and Training. Hence, the applicant, who had not been promoted as a Private Secretary, would naturally rank below those who had been promoted as Private Secretary. Since the post of Private Secretary is a selection post and since the applicant was not considered eligible by the DPC in its meeting held in March, 1989, no justifiable grievance can be made by the applicant. It is not as if the claim of the applicant for promotion was not considered. He was considered along with other candidates. Whereas the others were found eligible, the applicant was not so considered. The applicant can, therefore, have no justifiable grievance in regard to the fact that those who had been promoted as Private Secretaries were shown senior to him.

8. Amongst others, the applicant has made a grievance in regard to the promotions and seniority granted to one Shri V.O.S. Nambiar. This has been ~~done~~^{made} without impleading him and similar~~ly~~ other candidates, who will be affected by the grant of the prayers claimed in the O.A. As far as the said Nambiar is concerned, he

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joined the Cabinet Secretariat (R&AW) on deputation from Assam Rifles w.e.f. 9.9.1970 in the grade of Personal Assistant. Prior to deputation, he was holding the said post of Personal Assistant in Assam Rifles in substantive capacity w.e.f. 2.1.1960. At the time of initial Constitution of Stenographic Cadre in the Cabinet Secretariat (R&AW) w.e.f. 1.2.1983, Shri Nambiar was absorbed as a Personal Assistant. He was placed at Serial No. 4 in the seniority list of Personal Assistants in terms of Rule 115(3) of R&AW (RC&S) Rules, 1975 keeping in view his confirmation in his parent cadre. He was retrospectively promoted to the grade of Senior Personal Assistant w.e.f. 30.7.1980 on the basis of a review DPC held on 20.8.1990. The main DPC having been held in March, 1980, aforesaid benefit was accorded to him with reference to his immediate junior one Shri O.P. Sharma in the seniority list of Personal Assistants, who had been promoted to the grade of Senior Personal Assistant in July, 1980. A seniority list of Stenographer Grade-II (PA) was circulated on 18.11.1987 wherein Shri Nambiar was placed at Serial No. 4 as against the applicant having been placed at Serial No. 15. Though this seniority list was issued as far back as in 1987, no grievance was made by the applicant at that time. Such a grievance cannot be raked up by filing a present O.A. after a lapse of almost 10 years. It is as a consequence of the seniority of Shri Nambiar in the seniority list of Stenographer Gr.-II (PA) and ~~to~~ his retrospective promotion in the grade of Senior Personal Assistant which was granted way back on 30.7.1980 that he was

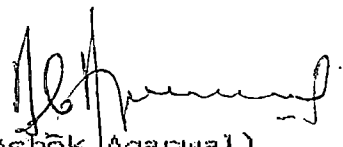
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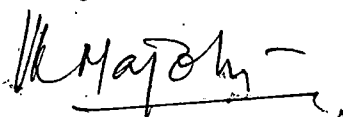
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promoted as Under Secretary and Deputy Secretary prior to the grant of the promotion of Under Secretary to the applicant.

9. A DPC meeting was held in March, 1993 to consider promotion of eligible Private Secretaries to the grade of Principal Private Secretary in the pay scale of Rs. 3000-4500 for filling up 2 vacant posts. The DPC considered 8 senior most Private Secretaries, including the applicant, who figured at Serial No. 5 in the inter-se placement of the officers under consideration. The DPC recommended 4 officers for promotion to the grade of Principal Private Secretary, including a candidate who was junior to the applicant. The DPC did not recommend the applicant for promotion. The post of Principal Private Secretary is a selection post. Hence, no justifiable grievance can be ^{had} held in the matter of a junior of the applicant having been earlier promoted to the grade of Principal Private Secretary. The applicant was thereafter recommended for promotion to the post of Principal Private Secretary by a DPC held on 25.7.1994.

10. If one has regard to the aforesaid facts, we have no hesitation in holding that no case has been made out by the applicant for grant of any of the reliefs claimed in the O.A. Present O.A. in the circumstances is dismissed. No order as to costs.


(Ashok Agarwal)
Chairman


(V.K. Majotra)
Member(A)