

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2258/1996

New Delhi this the 16th day of March, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

R.K. Chopra
S/o Sh.Sikander Lal Chopra
R/O 160, Inderpuri
Gurgaon -122001, Haryana. ... Applicant

(None for the applicant)

-Versus-

1. Union of India
through its Secretary
Department of Youth Affairs & Sports
H.R.D. Ministry
Shastri Bhawan
New Delhi.
2. Sports Authority of India
through its Chairman
J.N. Stadium, Lodhi Road Complex
New Delhi-110003.
3. Director General
Sports Authority of India
J.N. Stadium, Lodhi Road Complex
New Delhi.
4. Shri Ashok Bhatnagar
Deputy Director
Internal Audit Cell
Sports Authority of India
J.N. Stadium
Lodhi Road Complex
New Delhi-110003. Respondents

(None for the respondents)

O R D E R (ORAL)

Shri V.K. Majotra, AM:-

Parties and their Advocates are absent. We proceed to dispose of the OA in their absence in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. The applicant has assailed order No.213/95 dated 18.9.1995 promoting Shri Ashok Bhatnagar, respondent No.4 herein from the post of Accounts Officer to that of Deputy Director in the pay scale of Rs.3000-4500. The applicant claims that he was working as Section Officer in the pay scale of Rs.1640-2900 in the office of the Director of Accounts, Cabinet Secretariat and he joined respondent No.2, namely the Sports Authority of India, New Delhi on deputation as Junior Accounts Officer on 6.5.1985. The tenure of his deputation was extended upto 5.5.1988 on yearly basis. Vide Office Memorandum dated 31.3.1987, Annexure-I, he was deemed to have been permanently absorbed in the Sports Authority of India on 6.5.1985 as a Junior Accounts Officer. The applicant has stated that respondent No.4 a Junior Accounts Officer borne on the cadre of Controller of Defence Accounts joined the Sports Authority of India on deputation as Junior Accounts Officer on 19.12.1986. Respondent No.4 was appointed/promoted to the post of Accounts Officer on ad hoc basis under respondent No.2 vide order dated 30.3.1988, Annexure -II. Subsequently on 29.8.1988, the applicant was appointed /promoted to the post of Accounts Officer on ad hoc basis, Annexure-III. The applicant has alleged that on 25.7.1989, the respondents issued orders for absorption of the respondent No.4 in Sports Authority of India in public interest with effect from 1.4.1988 as Accounts Officer without fixing inter-se seniority and by ignoring the rightful claim of the applicant. The applicant has pointed out that respondent No.4 was promoted/regularised on 22.4.1992 as Accounts Officer in the pay scale of Rs.2375-3500 without obtaining

prior approval of his parent department and without issuing formal orders of his deemed absorption in Sports Authority of India with effect from 6.5.1987, Annexure -VII. Aggrieved by the impugned order dated 22.4.1992, the applicant submitted a representation on 15.5.1992 followed by several representations from time to time. According to the applicant, respondent No.4 had been imposed a penalty of stoppage of one increment for a period of one year without cumulative effect in a departmental enquiry charging him for misappropriation of cash to the tune of Rs.4180/-. The applicant has sought quashing of the impugned order dated 18.9.1995, Annexure-XIV whereby respondent No.4 was promoted to the post of Deputy Director. He has also sought refixation of inter se seniority in Finance Group Cadre claiming seniority over respondent No.4. He has further prayed that the respondents should be directed to promote the applicant to the post of Accounts Officer from the back date of 30.3.1988 with all consequential benefits.

3. In their preliminary submissions in written statement, the respondents have stated that in view of the increase in workload on account of the Ninth Asiad of 1982, a large number of persons were taken on deputation in Sports Authority of India and were absorbed on transfer basis with the consent of their parent cadres. They have further stated that the inter se seniority between direct recruits is governed by different principles depending on the method of recruitment and the seniority to be assigned to persons absorbed in an autonomous body while on deputation is governed by a different set of principles. The cardinal principle

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of seniority is that the persons working in an higher grade or scale of pay would rank en bloc ^{seniority} to persons working in a lower grade or the scale of pay. The seniority is assigned only when the person on deputation is absorbed and appointed on regular basis. According to respondents, respondent No.4 was senior to the applicant in the cadre of Accounts Officer to which he was appointed on a regular basis on 1.4.1988 whereas the applicant was appointed as Accounts Officer on regular basis on 6.4.1989. The respondents pleaded ⁱⁿ that respondent No.4 was appointed as Accounts Officer on 29.3.1988 on an ad hoc basis on deputation and on regular basis on absorption on 1.4.1988. Cause of action, if any had arisen in the year 1988 but the applicant had slept over the grievance, if any for such long number of years. contd.

(B)

4. The cadre controlling authority of the applicant gave its consent for permanent absorption of the applicant under respondent No.2 on 16.10.1992 with effect from 6.5.1987 i.e. the date on which he was working as a Junior Accounts Officer., Annexure R-III. On the contrary, respondent No.4 was holding a senior post of Accounts Officer with effect from 1.4.1987 already in his parent cadre and he was appointed on deputation on ad hoc basis as Accounts Officer with effect from 30.3.1988. Referring to the detailed instructions laying down principles for determining seniority of persons appointed to services and posts under the Central Government, Annexure R-I, the

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respondents have pleaded that respondent No.4 was senior to the applicant and has been assigned correct seniority and accorded promotion correctly.

5. We have perused the material on record. The relevant instructions regarding persons who are initially taken on deputation and are absorbed later are contained in Government of India, Department of Personnel and Training, Office Memorandum No.22011/7/86-Estt. (D), dated 3.7.1986, Annexure R-I to the counter. Para 3.4.1 reads as follows:-

"3.4.1. In the case of a person who is initially taken on deputation and absorbed later (i.e., where the relevant recruitment rules provide for "Transfer on deputation/Transfer"), his seniority in the grade in which he is absorbed will normally be counted from the date of absorption. If he has, however, been holding already (on the date of absorption) the same or equivalent grade on regular basis in his parent department, such regular service in the grade shall also be taken into account in fixing his seniority, subject to the condition that he will be given seniority from-

- the date he has been holding the post on deputation,

(or)

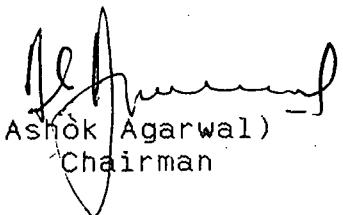
- the date from which he has been appointed on a regular basis to the same or equivalent grade in his parent department,

, whichever is later."

6. We find that the respondent No.4 was appointed as Junior Accounts Officer on 24.7. ^{1978 b} in his parent cadre vis-a-vis the applicant who was appointed as Junior Accounts Officer on 4.4.1983. Respondent No.4 was promoted to the post of Assistant Accounts Officer in his parent cadre in the pay scale of Rs.2000-3500 with effect from 1.4.1987 in

comparison, the applicant continued to hold the post of Junior Accounts Officer when respondent No.4 was promoted as Assistant Accounts Officer with effect from 1.4.1987. Respondent No.4 was appointed on ad hoc basis directly as Accounts Officer with effect from 30.3.1988 against which post he was absorbed as well with effect from 6.5.1987. The applicant was appointed as Accounts Officer with effect from 6.4.1989 only. ✓

7. From the facts stated above, we find that respondent No.4 had been senior to the applicant at the level of Junior Accounts Officer and later on at the level of the Accounts Officer as well. We find that the respondents have followed the principles contained in the relevant instructions, Annexure R-I in the matter of allocation of seniority and absorption of both contenders. In the light of the above discussion, we find that applicant has failed in establishing his claim preferred in the OA which is dismissed accordingly. No costs.


(Ashok Agarwal)

Chairman


(V.K. Majotra)

Member (A)

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