

6

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.279/1996

New Delhi, this 17th day of October, 1996

Hon'ble Shri A.V. Haridasan, Vice-Chairman(J)  
Hon'ble Shri V.Radhakrishnan, Member(A)

Shri H.L. Yadav  
s/o Shri A.S. Yadav  
A-229, Prashant Vihar, Delhi-85 .. Applicant

(By Shri B.S. Charya, Advocate)

Vs.

1. Chef Secretary  
Govt. of NCT of Delhi, Delhi
2. Secretary (Services)  
Govt. of NCT of Delhi, Delhi .. Respondents

(By Shri Arun Bhardwaj, Advocate)

ORDER(oral)

Hon'ble Shri A.V. Haridasan, VC(J)

In this application, the applicant who is presently working as Grade I of DASS, has prayed that the respondents may be directed to regularise his service in Grade I with effect from the date on which his juniors were regularised by order dated 21.9.92 with consequential benefits and that he be directed to be assigned <sup>proper</sup> his seniority position in the grade list. It is also <sup>also</sup> prayed that the condition that "promotion is subject to the final decision in the case entitled H.S. Bedi Vs. UOI & Ors in OA 113/91" may be dispensed with.

2. The respondents have filed their reply stating that the fact that applicant's juniors were regularised by order dated 21.9.92 is not disputed. They contend that the applicant could not be regularised on that date as a departmental enquiry was pending against him. They state that even though the applicant has been exonerated in full in the enquiry by an order dated

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 5.7.95, his case for regular promotion with effect from the date on which his juniors were so regularised was taken up with the Vigilance Department ~~but~~ it was reported that an FIR had been registered against the applicant with No.12/1995 and therefore in accordance with the instructions in regard to promotion and regularisation of officers, the applicant could not be regularised as criminal charge against him is pending.

3. After hearing the learned counsel on either side and on perusal of the pleadings in this case, we are of the considered view that the FIR registered against the applicant in the year 1995 should not stand in the way of his regularisation from the date his juniors were regularised by order dated 21.9.92 because on that date admittedly there was no FIR ~~for~~ a criminal case pending against him. As he has been fully exonerated in the departmental disciplinary proceedings respondents have no option but to regularise the applicant in Grade I of DASS with effect from the relevant date applicant's juniors were regularised by that order. The condition that promotion being subject to the final decision in the case titled H.S. Bedi Vs. UOI & Ors in OA 113/91 being equally applicable to the applicant's case as also his juniors, the applicant is not entitled to have that condition deleted.

4. In the result, the application is allowed in part and the respondents are directed to issue order of regularisation of the applicant in Grade I of DASS with effect from the date on which his juniors were

8

regularised by order dated 21.9.92 and to grant him all consequential benefits including assignment of correct position in the seniority list.

5. The above exercise shall be completed and necessary order passed and communicated to the applicant within a period of three months from the date of receipt of a copy of the order. There shall be no order as to costs.



(V. Radhakrishnan)  
Member(A)



(A.V. Haridasan)  
Vice-Chairman(J)

/gtv/