

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

DA No. 698/96

New Delhi: this the 3<sup>rd</sup> day of March, 2000.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MR. KULDIP SINGH, MEMBER (J)

Shri A. A. Shiromany,  
D-III/3437, Vasant Kunj,  
New Delhi.

..... Applicant.

(By Advocate: Shri K. C. Sharma)

Versus

Union of India  
through

the Secretary,  
Ministry of Information & Broadcasting,  
Ghastri Bhawan,  
New Delhi - 1.

... Respondents.

(None appeared)

ORDER

MR. S. R. ADIGE, VC (A)

Applicant seeks extension of the benefits of the Hon'ble Supreme Court's judgment dated 15.7.88 in R.P. Chasmane Vs. UOI & Ors (Annexure-A-11) and the CAT PB order dated 26.10.95 in DA No. 1324/91 Ms. Rajni Singh Vs. UOI and for counting of his seniority in Central Information Service by taking into account the service rendered by him in the Collected Works of Mahatma Gandhi Project of Information & Broadcasting Ministry of GOI with consequential benefits.

2. Applicant was initially appointed as Publicity Organiser in Regional Field Duties in Ministry of Information & Broadcasting on temporary basis w.e.f. 19.7.59. On 19.3.59 he was offered and he joined as Temporary Research Assistant in CUMG Project in Publication Division of Ministry of Information & Broadcasting. On 28.7.62 he was appointed as Asstt. Editor CUMG, and on 28.3.68 he was appointed to officiate as Editor CUMG w.e.f. 7.3.68 (Annexure-A5).

3. On 19.1.77 Respondents issued an order (Annexure-A-7) dissolving the Advisory Board for CUMG and integrating the CUMG Project into the Publication Division. On 4.5.77 applicant was appointed as Dy. Chief Editor CUMG on adhoc basis (Annexure-A8) and assumed charge on 6.5.77 (Annexure-A9).

4. On 10.7.78 <sup>respondents</sup> issued a Notification appointing inter alia the applicant to officiate in CIS Gr.I w.e.f. 3.6.78. Applicant now prays that the service rendered by him in CUMG Project prior to its integration with CIS (which was constituted w.e.f. 1.3.60) should also be taken into account while determining his seniority in CIS as was allowed to be done in the case of Shri R.P. Dhasmane.

5. Respondents in their reply contend that applicant had earlier filed OA No.552/87 seeking the same relief which was dismissed and an RA seeking review of the dismissal order was also dismissed. Secondly it is contended that Dhasmane's case (supra) is not applicable in applicant's case as it is different on facts and was moreover an order in personam. Thirdly, it is contended that against the Tribunal's order in Rajni Singh's case an <sup>SLP</sup> ~~appeal~~ is pending before <sup>Hon'ble Supreme</sup> ~~State High~~ Court. It has also been contended that subsequent to Dhasmane's case (supra) the Hon'ble Court in its judgment dated 9.11.90 in A.K. Bhatnagar Vs. UOI & Ors. has taken a different view, and keeping in view the judgment dated 9.11.90, applicant cannot be granted the reliefs claimed.

6. A perusal of the CAT PB order dated 9.7.90 in OA No.552/87 filed by applicant and others reveals that when the matter was being heard by the Bench, the issue of seniority by way of counting past service other than any regular service in CIS viz. temporary/adhoc service was

pending before the Constitution Bench of the Hon'ble Supreme Court because of conflicting decisions in Shri T.Kannan & Ors. Vs. Shri V.T. Arasu & Ors. and A.K.Bhatnagar & Ors. Vs. UII, and the Hon'ble Supreme Court had ordered maintenance of status quo as on 23.9.90. In these circumstances, the Bench in its order dated 9.7.90 felt that extending the benefits of Dhasmane's case (supra) to applicant & ors would be tantamount to prejudging the issues involved, and the only proper course of action would be to await the Hon'ble Supreme Court's order.

7. Since then the benefits of Dhasmane's case (supra) has been extended by the Tribunal to Ms. Rajni Singh vide order dated 26.10.95 in OA No.1324/91 filed by her (Annexure-A-17). Respondents have contended that an SLP has been filed against that order in the Hon'ble Supreme Court, but nothing has been shown to us staying, modifying or setting aside the aforesaid order dated 26.10.95. Furthermore relying upon the Hon'ble Supreme Court's judgment in Dhasmane's case (supra), the CAT PB in its order dated 16.8.96 in OA No.1394/91 Ms. Chandrika Wase & Ors. Vs. UII & Ors. and connected cases has extended the benefits contained in Dhasmane's case to those applicants also.

8. Meanwhile applicant has retired on superannuation on 31.12.89.

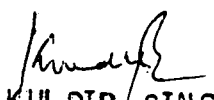
9. As no specific finding was recorded on applicant's claims by CAT PB in its order dated 9.7.90 in OA No.552/87 filed by him & others earlier, it cannot be said to operate as Res Judicata. We are satisfied that the case of applicant is on all fours with that of Ms. Rajni Singh's OA No.1324/91 disposed of by order dated 26.10.95 and of Ms. Chandrika Wase

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& Ors. O4 No.1394/91 and connected cases disposed of by order dated 16.8.96, and denial of the benefits claimed by him, which have been extended to others in the aforesaid cases would be subjecting applicant to hostile discrimination.

10. Furthermore as the non-counting of the aforesaid service affects applicant's monthly pension it is a continuing cause of action and hence would not be hit by limitation.

11. In the result the O4 succeeds and is allowed to the extent that seniority of applicant in CIS(now IIS) should be refixed after taking into account the service rendered by him in CUMG Project, Publication Division, Ministry of I & B, whereupon applicant's retiral benefits should be recalculated and paid to him along with arrears with effect from the date of his superannuation on 31.12.89 as expeditiously as possible and preferably within a period of 4 months from the date of receipt of a copy of this order. No costs.

  
( KULDIP SINGH )  
MEMBER(J)

  
( S.R. ADIGE )  
VICE CHAIRMAN (A).

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