

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1743/97

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

New Delhi, this the 21st day of July, 2000

Sh. C.R.Karmakar
s/o Sh. J.N.Karmakar
aged about 48 years
r/o 461, Kalyan Vas
New Delhi - 91.

... Applicant

(None)

Vs.

1. Secretary
Min. of Finance
(Department of Expenditure)
North Block
New Delhi.
 2. The Secretary
Min. of Urban Affairs & Employment
Nirman Bhawan
New Delhi.
 3. The Director General of Works
Central Public Works Department
Nirman Bhawan
New Delhi.
- ... Respondents

(By Shri R.V.Sinha, Advocate)

O R D E R (Oral)

By Smt. Shanta Shastry, M(A):

The applicant has sought the benefit of the in-situ promotion scheme of the Government of India by granting him upgradation to the next higher scale notionally on completion of 15 years service taking effect from 26.5.1969 along with the arrears from one year prior to filing of the application. He has also prayed for promotion to the post of Black-smith retrospectively from the date he was due for such promotion with consequential benefits.

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2. The brief facts of the case are that the applicant had joined as Chowkidar as a stop gap arrangement on 23.6.1967 at RRO, Maroda (M.P.). He was appointed directly as Black-smith in the scale of Rs.110-131 through test and selection. He joined the said post on 26.5.1969. The pay scale of the post was revised to Rs.260-350. He continued in that capacity till 31.5.1980 when he was declared surplus. Thereafter he was transferred to the Central (Surplus Staff) Cell of the Department of Personnel and Training (then designated as Department of Personnel and Administrative Reforms). On 26.12.1980, the applicant joined Respondent No.3 after redeployment. He was first accommodated as Messenger and thereafter designated as Daftary. He had all along been drawing the same pay scale which was revised to Rs.950-1500 on the recommendations of the Fourth Central Pay Commission.

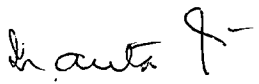
3. It is the applicant's case that till the time he filed the OA he had not received any promotion though he stagnated at the maximum of the scale i.e. Rs.1500/- w.e.f. 1.1.1995. According to the OM dated 13.9.1991 of the Government of India the benefit of in-situ promotion has been granted to the Group 'C' and 'D' employees. According to this, employees who were directly recruited to a Group 'C' or a Group 'D' post, whose pay on appointment to the post is fixed at the minimum of the scale and employees who have not been promoted on regular basis, even after one year on reaching the maximum of the pay scale of such post, they shall be entitled to in-situ promotion, i.e., next higher scale irrespective of vacancies. The

applicant has contended that he fulfilled all these conditions and therefore he should have been promoted. He made representations on 25.7.1995 and 30.5.1996 to grant him the in-situ promotion. However his representations were rejected vide OM dated 4.3.1996. The reason given is that the scale of the pay (i.e., Rs.950-1500) in which the applicant was allowed to draw his pay is already higher than the scale of pay in which he was appointed, i.e., Rs.750-940 and subsequently in the scale of Rs.775-1150. The learned counsel for the respondents also submits that the applicant did not fulfil any of the conditions required for granting of in-situ promotion. The applicant's pay was not fixed at the minimum of the scale of Rs.750-940 for the post of Messenger where the applicant was initially appointed on redeployment and also the applicant was subsequently promoted to the grade of Daftary w.e.f. 11.12.1989. The respondents have also stated that the nature of duties attached to the post of Messenger is different from that of Black-smith and, therefore,, the applicant is not entitled to any benefit of the OM dated 13.9.1991.

4. Neither the applicant nor his counsel is present. We have heard the learned counsel for the respondents and have perused the pleadings. it is seen that the applicant had put in 11 years of service as Black-smith in his earlier organisation before he was declared surplus in 1980 and he was redeployed as Messenger and later as Daftary in the office of the Respondent No.3. Had he continued in his earlier organisation he would have been entitled to the benefit of the in-situ promotion in 1996 in terms of

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the OM dated 13.9.1991 of the Government of India. Further we note that though the applicant was promoted as Daftary in the office of Respondent No.3 on his redeployment the pay scale of Daftary was much lower, i.e., Rs.775-1150 than that of the Black-smith which was Rs.950-1500. Thus, the applicant had already been reduced to a lower scale than in his previous post, though thanks to the respondents he was allowed to continue in his old pay scale of Rs.950-1500 as personal to him. Therefore his promotion to the post of Daftary really did not amount to promotion in terms of monetary upgradation. In fact, the main objective of the OM dated 13.9.1991 is to ensure that the Group 'C' and 'D' employees get at least one promotion to a higher grade in their career. In the present case though the applicant was given better posting as Daftary still he was not in the higher grade. This being so, we are inclined to allow the OA. We feel that the applicant should have been granted the benefit of the OM dated 13.9.1991 and should have been given the next higher grade, one year after the date when he stagnated at the maximum of the scale, i.e., 1.1.1996. We therefore direct the respondents to consider according in-situ promotion to the applicant by granting him the next immediate higher grade from the date the applicant had stagnated from more than one year at the maximum of the scale of Rs.950-1500. This exercise shall be carried out within a period of three months. We do not order any costs.


(SMT. SHANTA SHASTRY)
MEMBER(A)


(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/