

**CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI.**

O.A. No. 2276/97

decided on 28.09.1998

Name of Applicant : Sh. Chandan Singh

By Advocate : Sh. B B Raval)

Versus

Name of respondent/s Union of India & Others.

By Advocate : Sh. K C Dewan)

Corum:

Hon'ble Shri T N Bhat, Member (J)

Hon'ble Shri S P Biswas, Member (A)

1. To be referred to the reporter - Yes/No ✓
2. Whether to be circulated to the other Benches of the Tribunal. - Yes/No


(S. P. BISWAS)
MEMBER (A)

Case referred:

1. Syed Khalid Rizvi Vs. Union of India,
1993 Supp (3) SCC 575.

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 2276 of 1997

New Delhi, this the 28th day of September, 1998

HON'BLE MR. T. N. BHAT, MEMBER (J)
HON'BLE MR. S. P. BISWAS, MEMBER (A)

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Sh. Chandan Singh S/O Late Sh. Udhay Singh, Aged about 48 1/2 years, Resident Of : Plot No. 47, Shiv Colony, Sector 22, N.I.T. Faridabad.

(By Advocate: Sh. B B Raval)

---APPLICANT.

Versus

1. Union of India, Through the Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi - 110001.
2. The Director-General, Bureau of Police Research & Development, Ministry of Home Affairs, Block No. 11, 3rd & 4th Floor, C.G.O. Complex, Lodhi Road, New Delhi - 110001.
3. Smt. Kamini Bali, Editor (Hindi) Bureau of Police Research & Development, Ministry of Home Affairs, Block No. 11, 3rd & 4th Floor, C.G.O. Complex, Lodhi Road, New Delhi - 110001.

--RESPONDENTS.

(By Advocate -Sh. K C Dewan)

O R D E R

By Mr. S.P. Biswas, Member (A)-

This is the third round of litigation resorted to by the applicant, a Grade I Hindi Translator under respondent No. 2, the Director-General, Bureau of Police Research & Development (D-G/B.P.R.D for short). OA No. 479/97 was earlier filed by the applicant as he had become eligible for consideration of promotion to the post of Hindi Editor - a Group B Gazetted post - w.e.f.

18.11.1996 in accordance with the relevant Recruitment Rules of 1984. It is at this time the respondents had decided again to extend the deputation period of respondent No. 3 (Smt. Bali) by one more year upto 28.2.98 by an order dated 25.2.1997, modified later on by an order dated 11.3.1997. Since the applicant had become eligible for the post of Hindi Editor by that time, he felt aggrieved and filed OA No. 479/97. That OA was disposed of by this [redacted] Tribunal vide orders dated 6.5.1997 directing the respondents to consider applicant's case along with others and also to complete the process of selection for the aforementioned post within the period stipulated therein. When nothing was done to comply with the directions of this [redacted] Tribunal within the period prescribed, the applicant filed a Contempt Petition No. 179/97 which was dismissed on 2.9.1997 as the respondents could not be faulted for non-compliance. However, the Tribunal [redacted] observed that in case the petitioner was aggrieved by any order passed, he could also seek appropriate legal remedy. The Departmental Promotion Committee (D.P.C. for short) in its last meeting held on 10.6.1997 & 13.6.1997 considered three candidates including the applicant as well as respondent No. 3 and recommended the name of respondent No. 3 for posting as Hindi Editor. These three candidates were subjected to written test twice as well as personal talk and the process was completed. Pursuant to this meeting of the DPC, an order dated 18.6.97, was issued by which the deputation period of respondent No. 3 was extended for a further period upto 31.8.1998. The applicant is now aggrieved by the aforesaid order dated 18.6.1997 as at Annexure A-I.

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2. Sh. B B Raval, learned counsel for the applicant seeks to challenge the Annexure A-I order since the applicant has a long standing as Hindi Translator-Grade II right from 1977 and has got service experience in that grade for more than 16 years following which he was absorbed in the department under respondent No. 2. He was also promoted as Hindi Translator Grade I in scale Rs. 1640-2900 in November, 1993 and had completed three years period entitling him to claim the post of "Hindi Editor". The applicant would argue that he has a better claim compared to respondent No. 3 since the latter, though junior, was given two ranks up while taking her on deputation and was been promoted to Translator Gr. I post by her department only a few days back and that too on transfer to Chandigarh. The applicant would allege that some vested interest appeared to have manipulated/ conspired behind the back of the applicant to have deputation period of respondent No. 3 extended right upto 31.8.1998. Under these circumstances, the applicant has prayed for reliefs interms of, (i) quashing Annexure A-I order, (ii) repatriate respondent No. 3 to her parent department; and (iii) appoint him as Hindi Editor on promotion as departmental candidate with all consequential benefits.

3. We find that the applicant claims of being more meritorious than respondent No. 3 but the latter would not spare the former in making an appropriate counter claims. The applicant would claim 16 years experience, as aforesaid, of working as Grade II Hindi Translator and also having the experience of three years as Grade I

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Hindi Translator which is most essential pre-requisite.

Respondent No. 3 would submit that the applicant is only a Graduate in Hindi and does not possess the essential qualifications under Rule 7 (i) and (ii) of Recruitment Rules, 1984, whereas she is an M.A. in Hindi followed by Doctor of Philosophy in Hindi besides being author of numerous publications. The Tribunal is not required to adjudicate such claims and counter-claims. It is for the DPC or the respondents to entertain such claims and counter-claims. What is not disputed by either of the parties is that both of them fulfill the minimum qualifications for being considered against the post of Hindi Editor by means of recruitment through promotion/ or transfer on deputation.

4. The issue that falls for determination is the legality or otherwise of applicant's claim for promotion to the post of Hindi Editor and the respondents action in extending the deputation terms in favour of the present incumbent (Respondent No. 3).

5. Before we examine the legal issue, it would be appropriate to elaborate the law on the subject of promotions. It is admitted by both the parties that the Recruitment Rules, 1984, as annexed to the OA at pages 25 to 28-B, govern the procedures to be followed for filling up the post of Hindi Editor. The respondents have resorted to filling up of the vacancy by means of "promotion/transfer on deputation".

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6. Right to be considered according to one's own turn flows from Articles 14 and 16 of the Constitution. In respect of promotion, the law is well settled that no employee has a right to promotion but he has only a right to be considered for promotion according to the rules. Chances of promotion are not conditions of service and are defeasible. If any authority is required for this proposition, it is available in the case of **SYED KHALID RIZVI VS. UNION OF INDIA & OTHERS**, 1993 Supp (3) SCC 575. Mere entitlement is of no consequence when the promotion is by "Selection".

7. In respect of deputation, the law is also well settled in that no one has any inherent right to continue on deputation uninterruptedly. In any case, the Recruitment Rules hereunder provide that "the period of deputation shall ordinarily not exceed three years".

8. We find that the DPC which met on 10.3.1996 & 13.6.1997 examined the comparative merits of all the three candidates who appeared, including the applicant and respondent No. 3. Close perusal of the records/files/proceedings indicate that the real contest was between the applicant and respondent No. 3 and for detailed reasons recorded in the Minutes^e, the Committee recommended the name of respondent No. 3 and we do not find any infirmity in the process of selection. It would, therefore, be wrong to say that the "vested interests among the rank of the respondents have short-circuited the whole process by putting the DPC to

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could storage in violation of the Recruitment Rules."

Applicant's claim, therefore, cannot be sustained in the eyes of law.

9. As per the applicant's own admission, he became eligible for consideration only from 28th December 1996 and well before that respondent No. 3 was already on deputation basis with respondent No. 2 from September 1995. What the applicant has opposed is the series of piecemeal extensions of deputation period from time to time particularly after he had become eligible for the post, though, the Recruitment Rules permit extension upto the period of three years. We find that the applicant has not questioned the Recruitment Rules and, on the contrary, has desired that the action of the Govt. should be as per prevalent Recruitment Rules. The applicant has, however, questioned the method of selection by conducting a written test. As per DOPT's instructions for DPC, each DPC can devise its own method and procedure for objective assessment for suitability of candidates. Since, in this case, composite method of Recruitment was prescribed in Recruitment Rules where the internal candidates have to be considered alongwith outside candidates, DPC's adoption of the procedure herein cannot be questioned. Scrutiny of the records, however, indicate that the DOPT in August, 1997 made observations that the Recruitment Rules of 1984 were to be amended, in accordance with the DOPT's instructions dated 18.3.88. It has also been pointed out that in the composite method of appointment, UPSC has to be consulted when the post is in Group 'B' (Gazetted). DOPT also observed that the DPC proceedings were not correct, it was not properly

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constituted and accordingly advised to hold the review DPC after amendment of the Recruitment Rules. The Ministry of Home Affairs have also highlighted the need for observing rules on "cooling period" while extending deputation terms.

10. In the facts and circumstances of the case, we find that the applicant is only entitled for consideration of promotion but has no vested or fundamental right to promotion.

11. In the background of the details aforementioned, the OA is disposed of with the following directions:

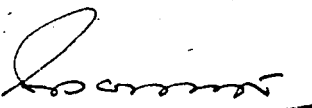
- a) The respondents shall initiate actions to amend the Recruitment Rules of 1984 keeping in view guidelines of DOPT dated 18.3.1988. This exercise shall be completed within a period of six months from the date of receipt of a copy of this order.
- b) Till the aforesaid exercise is over, the respondents shall have the liberty to make purely temporary/ adhoc arrangements by considering departmental available candidates. In case it is so done, the appointee shall be informed that such an adhoc appointment will not confer any right for continuation or regularisation in the said post as per rules. Alternatively, respondents, for reasons recorded in writing shall if considered unavoidable, relax the provisions of rules and continue with the present

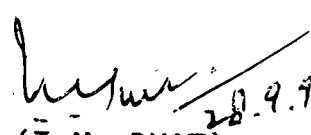
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incumbent only upto six months but after consulting the UPSC as provided under Section 5 of 1984 Recruitment Rules. We also expect that the respondents shall adhere to the provisions of "cooling period" to take effect in matter deputation in terms of rules/ instructions on the subject.

c) In case it is decided to fill up the post on the basis of promotion/ transfer on deputation in future, the applicant's case shall also be considered alongwith others in terms of rules and regulations on the subject.

d) There shall be no order as to costs.


(S.P. BISWAS)
MEMBER (A)


(T.N. BHAT)
MEMBER (J)

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