

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.281 of 1997

New Delhi, this 30th day of March, 2000

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

9

R.B. Gupta
S/o Shri Mohan Lal
R/o C4G-35A Janakpuri
New Delhi-110058 ...Applicant

(By Shri S.Luthra and Shri O.P.Khokha, Advocates
- not present)
(Applicant is present)

versus

1. Union of India, through
The Secretary
Ministry of Planning & Programme
Implementation, Department of Statistics
Sardar Patel Bhawan, New Delhi.
2. Shri S.P.Singh
Assistant Director
Ministry of Health & Family Welfare
Department of Family Welfare
Evaluation and Intelligence Division
A-Wing, Nirman Bhawan
New Delhi-110012.
3. Shri Naresh Kumar
Assistant Director
Ministry of Planning & Programme
Implementation
Central Statistical Organisation
Sardar Patel Bhawan, Parliament Street
New Delhi-110001.
4. Shri H.S. Chaudhary
Assistant Director
Ministry of Rural Areas & Employment
Krishi Bhavan, New Delhi-110001.
5. Shri S.S. Shokeen
Research Officer
Ministry of Rural Areas & Employment
Krishi Bhavan, New Delhi-110001.
6. Shri B.P.Katyal
Assistant Director
Ministry of Planning & Programme
Implementation
Central Statistical Organisation
Sardar Patel Bhawan, Parliament Street
New Delhi-110001. ...Respondents

(By Shri P.H. Ramchandani, Advocate - not
present)
(Shri J.K. Mehan, departmental representative
is present.)

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Order (Oral)

By Reddy, J.

We have heard the applicant as well the departmental representative on behalf of the respondents as none of the counsel on either side are present.

2. The applicant was initially appointed as Senior Investigator in the Central Statistical Organisation on 10.7.1975. The applicant was on deputation as Senior Statistical Assistant in the Directorate of Adult Education with effect from 29.2.1980. On his selection by the UPSC the applicant was appointed as Statistical Officer in the Directorate of Marketing and Inspection, Ministry of Rural Development in which he joined on 17.8.1982. As the applicant was not found eligible for consideration for appointment to Grade-IV ISS, he filed OA.2004/92 before the Tribunal, Principal Bench and the Tribunal in its judgement dated 18.2.1993 allowed the application and directed the respondents to appoint the applicant with effect from 1.10.1990 in terms of the Supreme Court judgement in B.S.Kapila & Ors. Vs Cabinet Secretary & Ors (Civil Appeal Nos.4612-13 of 1999) treating the applicant's case at par with his counterparts and other officers notably Shri Z.A.Lari who was junior to the applicant in the post of Senior investigator. The applicant was appointed to Grade-IV of ISS with effect from 1.10.90 in terms

CAB

of the judgement of the Supreme Court in Kapila's case by order dated 10.5.1993. The applicant, ~~is~~ aggrieved by draft seniority list published on 10.9.1993 placing him at sl.no.152, made a representation. The final seniority list was however prepared and circulated which is the impugned seniority list dated 30.8.1996. In the said seniority list the applicant's name was shown at sl. no.164.

3. It is the case of the applicant that as for the purpose of integration of the incumbents in the posts which are recognised as feeder posts for promotion to grade-IV of the IES/ISS, the posts are divided into two different categories, the 1st category comprises posts carrying a maximum pay of Rs.1200 and 2nd category comprises of posts carrying a maximum pay less than Rs.1200. The eligible officers belonging to the 1st category will be placed en block above other eligible ^{officers} in the 2nd category. The grievance of the applicant is that the categorisation was not done in accordance with the above principle. The applicant had been drawing scale of pay at Rs.650-1200 but he was shown in the impugned seniority list below the officers of the 2nd category namely the officers carrying the maximum of pay less than Rs.1200. It is averred that of the 2nd category of officers were placed en block above him. According to him he should have been

CAJ

placed at sl.no.90 in the impugned seniority list whereas he is now placed at sl. no.164.

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4. The case of the respondents is that the applicant was initially working in the post of Senior Investigator in the scale of Rs.550-900. Subsequently he was selected as Statistical Officer with effect from 17.8.1982. He was promoted to the Grade-IV of ISS only in terms of the Supreme Court's judgement in Kapila's case as per the directions given by the Tribunal in OA.2004/82 and his seniority was fixed based on his appointment as Senior Investigator in Central Statistical Organisation with effect from 10.7.1975 in preference to his junior Shri Lari who was also promoted to the post of Grade-IV of ISS. The applicant is therefore entitled to count his service only in the 2nd category of post namely, Senior Investigator and his service in the 1st category of post of Statistical Officer was rightly not taken into consideration for appointment in Grade-III and Grade-IV of ISS.

5. A preliminary objection has been taken by the respondents that the necessary parties are not ^{added} ~~implemented~~ as respondents in this case who are more than 174 officers, whose seniority would be affected if the OA is allowed.

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6. We have given careful consideration to the pleadings and arguments advanced by the applicant in the absence of his counsel. The main grievance of the applicant in this case is as to the position of his seniority in the impugned seniority list of officers of Grade-IV of ISS. The case of the applicant depends upon the principle of integration of the incumbents in the two feeder posts for promotion to Grade-IV of ISS. The feeder posts are Senior Investigator and Statistical Officer in the Central Statistical Organisation and Department of Rural Development respectively. As stated supra the scale of Senior Investigator carries the maximum pay of less than Rs.1200, which is in the 2nd category, whereas the post of Statistical Officer carries a maximum pay of Rs.1200, which comes in the 1st category. As per the principle of integration eligible officers belonging to the 1st category will be placed en block above the other eligible officers in the 2nd category. The applicant was appointed to the post of Grade-IV of ISS when he was working in the post of Statistical Officer i.e. 1st category. The grievance of the applicant is that he is entitled to be placed in the combined seniority list above the officers belonging to the 2nd category, i.e. Senior Investigator in the present case. To our mind, this contention cannot be accepted. In this context it is necessary to look into the



13

judgement of the Tribunal in OA.2004/92 dated 18.2.1993 which reads as under:

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"In the eligibility list of officials for promotion to Grade IV of ISS, it is the date of continuous officiation in the feeder categories that should determine the integrated seniority. Since it is admitted that persons who had been promoted as Senior Investigators later than the applicant have been promoted to Grade IV of the ISS as indicated in Annexure A-II, we allow the application and direct the respondents to appoint the applicant from 1.10.90 in terms of the judgement in Kapila's case by treating the applicant's case at par with his counterparts in other offices and notably Shri Z.A. Lari who was appointed to the feeder grade post later than the applicant's appointment as Senior Investigator. Action on the above lines should be completed within a period of three months from the date of the communication of this order. There will be no order as to costs."

7. A perusal of this operative portion makes it clear that the Tribunal has taken into consideration the applicant's service as Senior Investigator and as the junior to the applicant in the post of Senior Investigator was being promoted to Grade-IV of ISS, the OA of the applicant has been allowed in terms of the judgement of the Supreme Court in Kapila's case and the applicant was directed to be appointed to Grade-IV of ISS. Accordingly he was promoted taking into consideration the initial appointment of the applicant as Senior Investigator. The fact that the applicant has been appointed subsequently as Statistical Officer was not in the contemplation of the Tribunal nor can it be

CAB

taken into consideration for the purpose of implementing the judgement of the Supreme Court in Kapila's case. The claim of the applicant that his service as Statistical Officer where he was drawing the scale of pay in the 1st category should only be taken into consideration for the purpose of fixation of seniority, cannot be acceded to as the basis of appointment of the applicant being his service in the 2nd category of post namely, Senior Investigator whose pay alone should be taken into consideration. We do not find any basis for the claim of the applicant.

8. In the aforesaid circumstances, we do not find any merit in the OA. The OA is therefore dismissed. No order as to costs.

Shanta Shastri

(Mrs. Shanta Shastri)
Member(A)

V. Rajagopala Reddy

(V. Rajagopala Reddy)
Vice Chairman(J)