

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA.No.811 of 1997

New Delhi, this 23rd day of September, 1997

HON'BLE DR JOSE P. VERGHESE, VICE CHAIRMAN(J)
HON'BLE MR K. MUTHUKUMAR, MEMBER(A)

V. Balasubramanian
852, Kamla Nehru Nagar
GHAZIABAD 201 002. APPLICANT

By Advocate: Shri D. R. Gupta

versus

1. The Commissioner of Central
Excise, Sarvodaya Nagar
KANPUR.
2. Commissioner of Central Excise
Mangal Pandey Nagar
Opp. Meerut University
MEERUT.
3. Additional Commissioner
Central Excise
C.G.O. Building-II
Kamla Nehru Nagar
GHAZIABAD 201 002, RESPONDENTS

By Advocate: Shri V. S. R. Krishna

O R D E R (ORAL)

Dr Jose P. Verghese VC(J)

The applicant in this case had originally joined with the respondents office on 1.3.90 in the pay scale of Rs.1200-2040. Thereafter it was stated that he was reverted from service with effect from 24.1.91 and was posted in Rajya Sabha till 25.1.91 to 18.11.91. He was again taken back by the respondents on 19.11.91. The grievance of the applicant is that the applicant being the seniormost should have been considered for promotion on regular

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basis with effect from 1.3.95 for promotion to the post of Stenographer Grade-II since he was eligible and had completed five years of service.

2. By way of reply, the respondents stated that the DPC for 1993-94 was held in June 1994 and at the time when the said DPC was held, the applicant was not eligible as he had not passed the departmental examination held on 5.12.94. Thereafter according to the respondents the applicant was found eligible in the next DPC and by an order dated 7.7.96, the applicant was promoted to Stenographer Grade-II. It was also stated that the applicant was thereafter promoted to the next higher post of Inspector.

3. By way of rejoinder, the applicant stated that even though his claim in the OA is that he was promoted regularly to the post of Stenographer Grade-II with effect from 1.3.95. He himself stated in the rejoinder that the Review DPC was held on 8.9.95 and a person who is junior to him namely, Shri Jyoti Ram Sharma was promoted by an order dated 21.9.96, even though no such order has been annexed alongwith the rejoinder. The applicant also stated in the rejoinder that in the year of promotion of the applicant to the post of Stenographer Grade-II dated 2.7.96, the seniority of the applicant had already been corrected and was placed just above the same Shri Jyoti Ram Roy in the seniority list of Stenographer Grade-II. According to him, Shri Jyoti Ram Roy being junior to him in this seniority list, the respondents should have considered the candidature of the applicant for Stenographer

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Grade-II, at least from the date on which the said Shri Jyoti Ram Roy was promoted to the post of Stenographer Grade-II.

4. It was stated on behalf of the respondents that since all these facts were stated in the rejoinder there was no occasion for the respondents to find out the facts as stated, just hereinabove by the applicant in the rejoinder. It was stated by looking at the order dated 2.7.96 that Shri Jyoti Ram Roy was junior to the applicant not in the seniority list of Stenographer Grade-III rather in the seniority list of Stenographer Grade-II. The applicant on the basis of this order is also claiming that the respondents seems to have regularised the period the applicant worked with Rajya Sabha, which according to him, was after a technical resignation.

5. We have heard the arguments of both sides and perused the records and we are of the firm opinion that the respondents shall re-examine the claim of the applicant and see whether Shri Jyoti Ram Roy was junior to the applicant or not in accordance with the seniority list of Stenographer Grade-III and thereafter in case Shri Jyoti Ram Roy has been promoted on the basis of the Review DPC alleged to have been held on 8.9.95, with effect from 21.9.95, the applicant's case also may be considered by a Review DPC in accordance with rules and in case the applicant is found to be eligible for promotion, the applicant shall be treated to have been promoted to the post of Stenographer

Grade-II with effect from the date the said alleged junior Shri Jyoti Ram Roy was promoted and the applicant will be entitled to all consequential benefits. While considering the case of the applicant, the respondents shall also take into consideration the fact that the applicant happened to be looking after the duties of the post of Stenographer Grade-II since 1992.

6. With this, this OA is disposed of. No order as to costs.


(K. MUTHUKUMAR)
MEMBER(A)

dsb


(DR JOSE P. VERGHESE)
VICE CHAIRMAN(J)