

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No.2200/94

Dated this the 28th of April 1995.

Shri N.V. Krishnan, Hon. Vice Chairman 'A'
Dr. A. Vedavalli, Hon. Member 'J'

Triloki Nath Singhal,
C/o G.K. Aggarwal, Advocate,
G-82, Ashok Vihar-I,
Delhi 110 052.

...Applicant

By Advocate: Shri G.K. Aggarwal.

versus

1. Union of India through
Defence Secretary,
South Block,
New Delhi 100 011.
2. Chief Administrative Officer & HS (Trg),
Ministry of Defence, C-II Hutmants,
DHQ PO, New Delhi 110 011.
3. Vipin Chand Aggarwal, ACSO, D Aero,
Room 134, B-Wing, Sena Bhawan,
New Delhi 110 011.
4. J.S. Tikka, ACSO, AG Branch, PS 3,
Room 408, A-Wing, Sena Bhawan,
New Delhi 110 011.Respondents

Shri M.S. Ramalingam, Presenting Officer on behalf of
the respondents.

O R D E R (Oral)

The applicant is aggrieved by two orders
of the respondents. The first is dated 15.1.93 by
which, consequential benefits as a result of the
Supreme Court/Central Administrative Tribunal
Judgement dated 19.1.91/8.11.91 were communicated by
the Ministry of Defence to the Joint Secretary to the
Ministry of Defence concerned in regard to promotion &
ante-dation and post-dation of promotion in the grade
of Upper Division Clerk. The second is a similar
order dated 16.4.93 (Annexure A-2) in respect of
promotion in the grade of Assistants. The applicant
filed a representation in this regard on 14.6.93
(Annexure A-3). That representation has been rejected
on 30.7.93 by the Annexure A-4 reply. This OA has
been filed on 31.10.94 seeking a declaration that the

applicant is entitled to be promoted as UDC and as Assistant with consequential benefits including monetary benefits and arrears in those grades and correspondingly promotion with arrears in the grade of ACSO, from a date prior to or from the same date effective which respondents 3 & 4 were promotion as UDC, Assistant and ACSO and direct respondents 1&2 to amend the promotion list including annexures A-1 and A-2, grant any other relief.

2. The applicant has filed along with the OA, MA.3670/94 for condonation of delay. This has been opposed by the respondents both in the counter to the OA and in the reply to the MA.

3. The learned counsel for the applicant states that as the representation has been rejected by the memorandum dated 30.7.93, the limitation will start from that date and, therefore, the OA could have been filed upto 30.7.94. It having been filed on 31.10.94, a short delay of about three months has arisen, which may be condoned.

4. We have carefully considered these contentions. We notice from the pleadings that the issue of seniority in the respondents establishment has a chequered history. The seniority of L.D.C.s who joined as early as from 1951 to 1968 has to be revised consequent upon the judgement dated 21.2.89 of the Supreme Court in D.P. Sharma & Others versus Union of India & another (18 Suppl1) SCC 244) and the judgement dated 8.11.91 of this Tribunal in OA.115/90. Therefore, their case for promotion to the higher rank

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were to be reconsidered. That process was tedious and many review DPCs were held to reconsider promotion and give 'ante-dation' & 'post-dation' to promotion in various grades. The applicant seeks promotion from earlier dates as compared to the promotion given to respondent No.3.

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5. In our view, there should be a guideline to this process of refixing seniority in an establishment ridden with litigation. Therefore, we would not like to interfere in such a case if it can be helped.

6. The impugned orders were issued on 15.1.93 and 16.4.93. The admitted delay is around three months. In the MA, the reasons given are that the applicant was advised that he could move the Tribunal within one month after February 1994 because the judgement of the Supreme Court and the Tribunal were fully complied with only in February, 1994 in pursuance of certain directions given in the CCP filed in OA.115/90. Therefore, on that consideration, the OA could have been filed even upto February, 1995. Secondly, he states that the delay is only about 2-1/2 months and the period being short, this may be condoned as the applicant has a strong *prima facie* case. He also pointed out that the relief that has been claimed, will have no consequence and no effect on others.

7. We are not satisfied with the reasons, more so, keeping the protracted history of the litigation in view.

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8. We are, therefore, not inclined to accept the MA for condonation of delay and it is rejected. Consequently, the OA is also dismissed as barred by limitation.

A.Vedavalli

(Dr.A.Vedavalli)
Member(J)

N.V.Krishnan
28/4/95

(N.V.Krishnan)
Vice Chairman(A)

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