

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

OA No. 231/1994

and

OA No. 232/94

New Delhi this the 16th day of Nov. 1995.

Hon'ble Shri N.V. Krishnan, Acting Chairman.
Hon'ble Shri D.C. Verma, Member (J)

OA No. 231/1994

1. Veer Singh
R/o 275-II, I.T. Colony, Pitam pura
Delhi - 110 034.

2. C.S. Rawat
R/o 338-II, I.T. Colony
Pitampura
Delhi-110 034.

...Applicants

(By Advate: Shri D.R. Gupta)

Versus

UOI through

1. Chief Commissioner of Income Tax
C.R. Building, I.P. Estate
New Delhi.

2. Deputy Commissioner of Income Tax
HQs. Admn. II, I.P. Estate
New Delhi.

...Respondents

(By Advocate: Shri R.S. Aggarwal)

OA No. 232/1994

A. S. Bisht
R/o 302, I.T. Colony
Pitampura
Delhi-110 034.

...Applicant

(By advocate: Shri D.R. Gupta)

Vs.

1. UOI through
Chief Commissioner of Income Tax
C.R. Building, IP Estate
New Delhi.

2. Dy. Commissioner of Income Tax
HQs, Admn. II
New Delhi

...Respondents

(By Advocate : Shri R.S. Aggarwal)

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O R D E R (Oral)

Hon'ble Shri N.V.Krishnan, Acting Chairman.

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Both these OAs raise similar issues and are heard together and are being disposed of by this common order.

We consider O.A 231/1994. The two applicants therein are aggrieved by the Annexure A-I order by which they were regularly promoted to officiate as LDCs with effect from the date of issue of that order i.e. 21.5.1993 and not from the date they had been promoted as LDCs on ad-hoc basis. It is stated that the applicant Shri Veer Singh was recruited as a peon from 15.3.1976 and promoted as LDC on 26.6.82 without any interruption. The second applicant Shri C.S.Rawat was similarly promoted as LDC from February 1982. The prayers made by them are to issue a direction to the respondents to regularise the applicants as LDCs with effect from their date of appointment as LDCs on ad-hoc basis. i.e. 26.6.82 and to direct the respondents to assign proper seniority to the applicants in the grade of LDC.

2. The respondents have filed a reply contesting this case and have stated that Group-D employees to which the applicants belonged when they joined the service could be promoted as LDCs only against a quota of 10% of vacancies. The respondents submitted that ad-hoc promotions were not made against regular vacancies. There was no vacancy under the 10% quota in the cadre of LDC in 1982. Hence the applicants could not be promoted on regular basis in 1982. They were given only ad-hoc promotions and they cannot claim seniority on that basis, the respondents aver.

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3. In the rejoinder filed, the applicant has annexed a judgement of this Tribunal to which one of us (N.V. Krishnan) was a party. That order was rendered in OA 1007/89 Ram Pal Singh Vs. UOI. He claims that the facts of the present case are absolutely similar and the applicants are entitled to the same relief.

4. We have heard the learned counsel for the parties and also perused the earlier judgement.

5. In the earlier case decided by the Tribunal, a similar prayer was made that the appointment of the applicant as an LDC should be declared to be regular from 26.6.82, i.e. from the date of his appointment. In that case also, the respondents took up the plea that the 10% quota earmarked for promotion from Group-D to Group-C post of LDC was already full. However, as there were vacancies in the direct recruitment quota of LDCs, in the exigencies of service, the applicant was given an ad-hoc appointment which was in lieu of the vacancies to be filled up by direct recruitment from the Staff Selection Commission. When a vacancy finally arose under the 10% quota, the applicant was given regular promotion.

6. In that case, the respondents were directed to furnish the full particulars of cadre strength, the number of posts under the 10% quota, persons appointed in the posts and other details to substantiate their case. Those such particulars were not given despite granting them sufficient opportunities. Hence the matter was decided on the basis of the available records. It was held that the respondents had admitted that the applicant

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was first promoted as LDC on the basis of the result of an examination, that such an examination could not have been held if there was no vacancy under the 10% quota and that, in any case, the respondents did not produce any orders to show the names of persons selected by the Staff Selection Commission. It was held that, in the circumstances of the case, there was no doubt that when a panel was prepared from which ad-hoc appointments made, vacancies in the 10% quota existed. Hence it was held that the applicant was regularly appointed from the date of his appointment as LDC from 26.6.82.

7. That order was passed on 9th August 1994. The respondents have no case that that order has not become final. The respondents very well knew the main reason why that order was passed, namely, the respondents failed to prove by production of suitable records and data that the appointment of the applicant therein was indeed an ad-hoc appointment. Yet even though more than a year has passed, when this case was taken up today, no further information is made available to us.

8. We put a question to the learned counsel of the respondents: why, under the circumstances, we should not follow the earlier judgement rendered by the Tribunal. He only submitted that on the basis of information received by him, that the vacancies available under the promotion quota of 10% appointment was purely on temporary ad-hoc basis. Further sufficient number of LDCs were already working on ad-hoc basis who were senior to the applicant.

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9. We have considered this matter. This does not advance the case for the respondents any further. No additional information/evidence is made available to us to warrant a change in the earlier decision.

10. The learned counsel for the respondent also submits that the applicant has filed another OA No.1972/94 and it would be better if that OA is also disposed of. We have heard the relief sought in that OA as stated by him. We are satisfied that the relief claimed therein is materially different from the relief claimed here. Accordingly we follow our earlier decision taken on 9.8.1994 in OA1007/94 Ram Pal Vs. UOI and we declare that the appointment of the applicant was on a regular basis right from the date of his appointment as LDC.

11. That declaration also applies to the applicant in OA 232/94.

12. The applicants in both cases are therefore entitled to count seniority in the grade of LDC from that date. The OAs are disposed of accordingly.

13. The Order shall be placed in OA No.231/94 and an authenticated copy shall be placed in OA 232/94.

(D.C.Verma)

Member (J)

* Ashraf*

True Copy
Attested
Acting Chairman

16/11/95

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Court Officer
General Administrative Tribunal
Panchsheel Park, Faridkot House
Connaught Marg New Delhi-110001