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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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OA.657 of 1994

Dated New Delhi, this 9th day of September, 1994

Hon'ble Shri J. P. Sharma, Member(J)

Hon'ble Shri B. K. Singh, Member(A)

Shri Yogeswar Sarma
R/o Pocket A-4/43, DDA Flats
Konark Apartments
Kalkaji Extn.,
NEW DELHI-19

... Applicant

By Advocate: Shri R. Doraiswamy

VERSUS

Union of India through

1. Secretary
Department of Supply
'C' Wing, Nirman Bhawan
NEW DELHI-110 011

2. Director General of
Supplies & Disposals
Jeevan Tara Building
No.5, Sansad Marg
New DELHI-1

... Respondents

By Advocate: Shri N. S. Mehta

O R D E R
(Oral)

Shri J. P. Sharma, M(J)

The undisputed facts are that the applicant joined after selection in the Central Secretariat Stenographers Service(CSSS) at the relevant time on 1.4.92 while working as Grade 'C' Stenographer in the Department of Supply(DGSD). At that relevant time the Department of Supply was also entering into purchase for other Ministries and Departments such as P&T, Defence etc. including Railways. The applicant on 1.4.92 was sent to Railway Board in the same

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capacity i.e. for purchase of certain relevant items and he has gone along with the post. The applicant continues to work there and the respondents have taken their stand that such deputationist on transfer shall be finally absorbed in the Railway Stenographers Service(RSS).

2. The grievance of the applicant is that because of restructuring policy issued by Ministry of Personnel in the CSSS Grade 'A' & 'B' of the said service has been merged in order to give better chance of earlier promotion to Grade 'C' Stenographer. As a result of this, certain juniors who were still working in the Department of Supply on the exigencies of the services, were given ad-hoc promotion to Grade 'B' Stenographer of the aforesaid service w.e.f. 1.11.93 for the period upto 31.3.94. The order dated 1.2.94(Annexure 'A-1') substantiates this fact. The case of the applicant is that had he been in the parent Department of Supply, being senior he would have earned the ad-hoc promotion which has since been granted w.e.f. 1.11.93 to his juniors.

3. He made certain representations to the respondents and being unsuccessful, he filed this OA in March, 1994 praying for the following reliefs:-

- "(i) To consider the applicant for promotion to the grade (A&B) merged of CSSS from the date of availability of the vacancies as a result of restructuring i.e. from 1.11.93.

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(ii) To take the applicant back into C.S.S. cadre of the Department of Supply, or alternatively to allow him the promotion to Grade(A&B) merged while continuing with the Ministry of Railways/Northern Railway;

(iii) To grant all consequential benefits including arrears of pay w.e.f. 1.11.93, the date from which those of applicant's juniors have been promoted;

(iv) Any other relief considered just and proper."

4. The respondents, on notice, contested this application and have admitted in their reply that the applicant's liaison continues in the Department of Supply for the period until the applicant is duly absorbed in respective cadre of Ministry of Railways. However, the respondents have opposed the grant of back wages prayed for on the ground, inter-alia, that the applicant cannot be given promotion on the deputation/transferred post because certain junior to the applicant has since been promoted in his parent cadre. The applicant, of course, can earn that benefit when a junior to him is promoted on regular basis. The ad-hoc promotion is in the exigencies of service and available person was promoted to discharge the function required by the concerned department. An ad-hoc promotion does not give any right to a person so promoted either for seniority or for consideration for regularisation in the grade. It is, therefore, stated that the applicant has since

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been transferred along with the post and there is every likelihood and as a policy, it has been already considered to absorb such tranferee/deputationists of absorbing in respective cadre of the Stenographers in the Railways.

5. The applicant has also filed a rejoinder reiterating the facts already referred to in the OA. The applicant has, however, reiterated paragraph 3.6 of the O.M. dated 30.12.91, a copy of which has been annexed as Annexure 'A-2' with the OA. Paragraph 3.6. of the said O.M. reads as follows:-

"In case of transfer of officers and staff to Ministry of Railways it has been decided in consultation with Ministry of Railways and Department of Personnel & Training(Ref. Department's O.M.No.1/5/90-Special Cell dated 13.12.90) that these officers and staff will be absorbed in the respective cadres of Indian Railways. Pending completion of the absorption process corresponding number of officers and staff will be transferred on deputation, with the option to get absorbed in the Ministry of Railways."

6. Heard the learned counsel for the parties at length. The learned counsel for the applicant himself has been lukewarmed in pressing the relief for ad-hoc promotion in the parent cadre on the post he is working at present. Obviously because the applicant can earn such benefits only when a regular promotion to any of his junior under the well established next below rule is given applicable in service matters. We, therefore find that ad-hoc promotion cannot be granted to the applicant.

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Regarding repatriation to the parent department, in fact, the respondents have admitted that the lien of the applicant still subsists in the Department of Supply. The applicant, it is also admitted by the respondents, has not yet been absorbed in the respective grade in the Railway Stenographers Service. As per the O.M. referred above in paragraph 3.6 quoted goes to show that the option has to be taken from the applicant for absorption in the Ministry of Railways. This is also because there are two different services, CSS and RSS. When the incumbent of one service goes and joins another service, he has to suffer for gain according to birth he gets in that service in seniority as well as in the fixation of pay. In view of this, an order has to be passed regarding such absorbbee in the foreign service and that can only be done with the consent of the person concerned. The learned counsel for the applicant on behalf of the applicant has given a clear statement at the bar that the applicant no more wants to be absorbed in the respective grade of the RSS. His statement is taken on behalf of the applicant and will bind him in the future career of the service. It is taken to be an authorised statement from the counsel on behalf of the applicant.

7. The learned counsel for the respondents could not show any law that in the event of a person coming to

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another department through Central Government, cannot seek repatriation to the parent department, if it is admitted to the administration that the lien is still subsisting in the parent department. The position, of course, becomes somewhat complex in nature as the post too was transferred along with the applicant in the Ministry of Railways. These posts will remain ex-cadre posts in the RSS but for all purposes, will count as posts on the strength of Department of Supply. This transfer of the posts cannot come in the way of legitimate claim of the applicant for repatriation to the parent department. The applicant has agreed to serve in the service for which he had been selected and appointed. He, however, cannot refuse the posting according to terms and conditions of deputation, but he can very well aspire for better prospect and that is available in the parent department. The respondents are expected to consider the applicant in a justifiable manner.

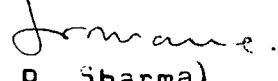
8. In the circumstances, we direct the respondents to consider the case of the applicant for repatriation to the parent department and on the event if it necessitates, transfer the posts to the Department with consultation of DoPT. The decision in this regard between and the applicant be informed accordingly.

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9. In view of the above facts, the application is disposed of as stated above. Cost on parties.


(B. K. Singh)
Member (A)


(J. P. Sharma)
Member (J)

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