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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

U.A.NO.664/94

New Delhi, this the 14th day of September, 1994

HON'BLE SHRI J.P.SHARMA MEMBER (J)

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER (A)

Shri Surya Mani Rai
Retd. Asstt. Legislative Counsel (Hindi)
r/o Type IV-95, North-West Moti Bagh,
New Delhi.

..applicant.

(By Advocate Shri HL Srivastava)

Vs.

Union of India, through:
The Secretary
Ministry of Law, Justice & Company
Affairs (Legislative Department)
Shastri Bhawan, A Wing, 4th Floor,
New Delhi.

..Respondents

(By Advocate Shri KCD Gangwani)

ORDER

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER (A)

The applicant was functioning as Assistant Legislative Counsel in the Legislative Department (Official Languages Wing) of the Ministry of Law, Justice & Company Affairs. The next promotion is to the post of Deputy Legislative Counsel (Hindi). This post in the higher grade fell vacant on 31-8-1993 and at that time the applicant was left with five months service since the applicant was due to retire on 31-1-1994. This U.A. has been filed with a prayer for the following directions:-

- (a) To issue an appropriate writ/order/ direction in the form of Mandamus commanding the respondent for discharging his legal duty by way of passing/ issuing the order promoting the applicant to the post of Deputy Legislative Counsel (Hindi) with effect from 1-9-1993 as expeditiously as possible.

- (b) To direct the respondent to submit the original file/records relating to promotion of the applicant vis-a-vis other incumbents made by the Departmental Promotion Committee.

2. The learned counsel for the applicant argued that the Departmental Promotion Committee had met only on 22-10-1993 and even after this delay in the D.P.C. meeting, there was no follow up action. It is his contention that the delay was deliberate and promotions were made not even after October, 1993 so as to specially benefit the junior departmental candidates. Promotions to the post of Deputy Legislative Counsel (Hindi) are made by rotation by filling up such vacancies on promotion and by direct recruitment and by denying promotion to the applicant the interest of the next junior departmental candidate got protected.

3. Respondents have however averred that the applicant had a right only to be considered for promotion and not a right for promotion as such. Due consideration was given for promoting him. There was no ulterior motive to deny him the promotion and help the next junior person. By the time the D.P.C. proceedings could be put up to the higher authority for approval namely the Cabinet Minister incharge of the Law Ministry, the applicant was left with less than three months' service. At the highest level the proposal for promotion to the applicant was not approved because of the short time left. At the time of arguments, the learned counsel for respondents referred to certain documents indicating that promotions of officers who have less than three months of service left need not be processed where such promotions require approval at the highest level. At this stage the learned counsel for the

applicant referred to the promotion of Shri Devinder the then Assistant Editor of the same Department as Editor some time in September, 1993 when he was left with only one month's service. It is however, the case of the respondents that the circumstances of the case are not similar and the rules for promotion are different.

4. After hearing both sides, we repeatedly asked learned counsel for the applicant as to whether he would be in a position to show any instructions/citations to bring out that on the recommendations of the D.P.C. an employee has a right to be promoted and any delay in such a promotion is illegal. No such instructions/citations could be produced. We were also advised across the bar by the learned counsel for the respondents that no one has yet been promoted as Deputy Legislative Counsel(Hindi) even to this date nor has any further D.P.C. been held.
5. In the circumstances, the D.A. is dismissed. No costs.

P. T. Thiruvengadam

(P. T. THIRUVENGADAM)
Member(A)

'M'

J. P. Sharma

(J. P. SHARMA)
Member(J)