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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA682/94.

New Delhi, this the 06th day of April, 1994.

Shri J.P.Sharma, Member(J)
Shri S.R. Adige, Member(A)

Shri C.S.Sehgal,
U.D.C., Delhi College of Engineering,
Project, Bawana, Delhi,
Resident of 2/21, Rattan Nagar,
New Rohtak Road, New Delhi.

...Applicant

By advocate : Shri S.C.Jain.

VERSUS

1. Lt. Governor,
Through Chief Secretary,
Govt. of National Capital Territory of Delhi,
5, Sham Nath Marg, Delhi-110054.
2. Secretary (Services),
Govt. of National Capital Territory of Delhi,
5, Sham Nath Marg, Delhi-110054. ...Respondents

O R D E R (ORAL)

SHRI J.P.SHARMA (J)

The applicant was selected and appointed in the post of Information Assistant in G.B.Pant Hospital by the order of February, 1974. The respondents issued a circular in August, 87 asking the head of the departments that there is a proposal for inclusion of the post of Information Assistant in DASS cadre. Ultimately, by the order of 24.2.1990 the post of Information Assistant was listed as a duty post in Grade III of DASS in exercise of the powers under rule 2(h) read with rule 4(1) of the DASS Rules, 1967. Ultimately, by the order of 14.3.92, the applicant was included in DASS Cadre.

2. The grievance of the applicant is that though the post was encadred in 1990, but he is entitled to the seniority of the post of Information Assistant from the date of his

initial appointment in G.B.Pant Hospital, i.e., from 1974. The learned counsel has highlighted the provisions of 1967 rules and referred to clause 2(h) and to rule 5. Clause 2(h) only refers to duty posts. The post of Information Assistant has been included as a duty post by the notification of 1990. Under rule 5, there is a provision for initial constitution of the service and rule 5(2) deals with seniority. The contention of the learned counsel is that in view of the provision of initial constitution of service, the applicant is entitled to gain seniority from his initial appointment in Grade III of DASS, i.e., wef 1974. The relief claimed by the applicant in the application is that a direction be issued to the respondents to assign seniority of the applicant w.e.f. 8.3.1974 in grade III of DASS.

3. We have heared the learned counsel on considerable length and also gone through the impugned order dated 16.4.93 wherein the representation which the applicant has made in August, 1990, has been rejected. The contention of the learned counsel is that since the applicant was drawing same scale of pay as Information Assistant while he was initially regularly appointed as Information Assistant in G.B.Pant Hospital, he is entitled to count his seniority from that date. The seniority in normal legal terminology means the length of service put by a person in a cadre and he is assigned a berth in the service, according to that criterion. The applicant wants that though the encadrement of the post of Information Assistant was as a sequel to the notification of 1990 and the appointment of the applicant relates to the year 1992, yet he aspired claiming his seniority from 1974. The applicant was not a member of the service of Grade III of DASS at the relevant

time. The applicant is claiming seniority in grade III of DASS. The applicant has to make a *prima facie* case for adjudication before this is admitted. When we find that the applicant has no case at all to be considered, then we are unable to be persuaded by the arguments of the learned counsel. The learned counsel when the judgment was being dictated has placed before us a copy of the order passed by the Principal Bench in the case of Asha Ram vs. Union of India decided on 27.11.92. In that case, Asha Ram prayed before the Tribunal that his service rendered in grade IV of the Delhi Administration Subordinate Service (DASS) as Telephone Operator on ad hoc basis was not taken into account while fixing the seniority. The facts in the present case are totally different. The applicant in the present case was appointed after encadrement of the post of Information Assistant in 1990.

4. In view of these facts, we find no merit in this application and is dismissed at the admission stage itself.

Kalra
(S.R.ADICE)
MEMBER(A)

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J.P.Sharma
(J.P.SHARMA)
MEMBER(J)