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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA NO.873/94New Delhi: this the 9th day of November, 2000.

HON'BLE MR.S.R.ADIGE VICE CHAIRMAN(A).

HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN(A).

Shri C.Haridas,

Fisheries Research & Investigation Officer,

(for short FRIO) ,Department of Agriculture

& Cooperation,
Krishi Bhawan,

New DelhiApplicant.

(By Advocate: Shri S.M.Garg)

Versus1. Union of India,
through

Secretary,

Dept. of Agriculture & Cooperation,

Krishi Bhawan,

New Delhi.

2. Secretary,
Dept. of Personnel & Training,
North Block,
New Delhi.3. Union Public Service Commission,
Shahjahan Road,
New Delhi.4. Shri G.P. Kukreti,
Fisheries Research & Investigation Officer,
Dept. of Agriculture & Co-operation,
Krishi Bhawan,
New Delhi.Respondents.

(By Advocate: Shri S.M.Arif)

ORDERMr.S.R.Adige, VC(A):

In this amended OA, applicant seeks quashing of the proceedings of the review DPC which met on 20.10.92 for retrospective promotion of Respondent No.4 to the post of Fisheries Research & Investigation Officer (FRIO) and also for quashing of the DPL

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proceedings dated 13.4.94 for making selections for promotion to the post of Asstt. Commissioner (Fisheries) recommending Respondent No.4 for promotion. Applicant seeks restoration of the inter se seniority of FRI0; as contained in the seniority list dated 28.9.87 and to set aside the inter se seniority assigned to Respondent No.4 above applicant. He also prays for promotion to the post of Asstt. Commissioner (Fisheries).

2. Applicant was appointed as FRI0 on adhoc basis w.e.f. 17.9.83 and was regularised w.e.f. 19.11.84. As on 1.10.87 he was at Sl.No.4 of the seniority list of FRI0s (Annexure-A2). As Sl.Nos.1, 2 and 3 already stood promoted as Asstt.Commissioner (Fisheries) he was No.1 in the seniority list for consideration as Asstt.Commissioner (Fisheries).

3. Meanwhile Respondent No.4 was initially appointed as Technical Asstt. (Fisheries) under the Deptt. of Agriculture & Cooperation, w.e.f. 7.10.60. In May, 1970 the post of TA (Fisheries) which was held at that time by Respondent No.4 was declared surplus by SIU of Finance Ministry. Instead of surrendering him to Central Surplus Cell, Respondent No.4 was appointed on purely temporary and adhoc basis to the newly created higher post of STA (Fisheries) w.e.f. 10.2.71 as a purely stop gap arrangement, pending filling up the post through direct recruitment as per RRs. When the post was filled up on regular basis in May, 1973, Respondent No.4 was adjusted on purely temporary and adhoc basis against the post of Fisheries Research Investigation Officer (Selection grade).

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w.e.f. 23.7.73. Subsequently after amendment of the RRs for the post of FRI(SG) to make promotion a mode of recruitment, Respondent No.4 was appointed as FRI (SG) on regular basis w.e.f. 12.5.83.

4. Upon rejection by UPSC of ~~the~~ request for regularisation of ~~Respondent No.4~~ services as FRI (SG) retrospectively w.e.f. July, 1973, he filed OA No.782/86 seeking counting of his service w.e.f. 23.7.73 for the purpose of determining his seniority in the combined seniority list of STA(Fisheries) and FRI(SG). His grievance was that having worked in the post of FRI(SG) for a period of 5 years, he became eligible for promotion to the post of FRIO on 23.7.78, which had been unjustifiably denied to him.

5. The CAT PB in its order dated 20.7.90 (Annexure-R-1) in OANo.782/86 directed respondents to count the services rendered by Respondent No.4 on the post of FRI (SG) w.e.f. 23.7.73 for the purpose of determining his seniority in the cadre. The Bench further directed that his name be interpolated in the seniority list of FRI(SG).

6. The aforesaid directions were implemented and the seniority list was accordingly revised. Pursuant to the same, UPSC was requested to hold a review DPC for considering the retrospective promotion of Respondent No.4 to the post of FRIO. UPSC held review DPC on 20.10.92 and upon its recommendation, Respondent No.4 was appointed as FRIO w.e.f. 19.11.84.

7. As a result of his retrospective promotion, Respondent No.4 became seniormost in the FRIO seniority

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list (Annexure-R-11). His case therefore was considered for promotion as Asstt. Commissioner and in its meeting held on 13.4.94, UPSC recommended Respondent No.4 for promotion as Asstt. Commissioner (Fisheries) and he was accordingly promoted w.e.f. 12.5.94.

8. We have heard applicant in person and Shri Arif for respondents. We have perused the materials on record and given the matter our careful consideration.

9. A perusal of the CAT PB order dated 20.7.90 in OA No.782/86 U.P.Kukreti Vs. UOI & Ors. reveals that relying upon two Hon'ble Supreme Court's rulings namely in the Direct Recruit Class II Engineers' case JT 1990(2) SC 264 and Narendra Chadha's case 1986(1) SLR 211 the Bench directed that the service rendered by Respondent No.4 on the post of FRI (SG) w.e.f. 23.7.73 had to be reckoned for the purpose of determining his seniority in the cadre. Respondents were accordingly directed to do so and to interpolate his name in the seniority list of FRI(SG).

10. In view of these unambiguous and specific directions of the Tribunal, official respondents cannot be faulted for acting in compliance of the same, resulting in the seniority of Respondent No.4 being revised. In the background of UP & T's OM dated 10.4.89 official respondents also cannot be faulted for convening a review UPSC which recommended Respondent No.4 for promotion as FRI0 w.e.f. 19.11.84. Since by virtue of his regular promotion as FRI0

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w.e.f. 19.11.84, he acquired the eligibility qualification of 5 years' regular service in the grade for consideration for promotion as Asstt. Commissioner(Fisheries) and he was accordingly considered and promoted as such w.e.f. 12.5.94.

11. A perusal of official respondents' notification dated 27.5.94 (copy taken on record) promoting Respondent No.4 as Assistant Commissioner(Fisheries) w.e.f. 12.5.94 makes it clear that his promotion was made subject to the outcome of the present OA. Meanwhile it is not denied that Respondent No.4 has since retired on superannuation (his DOB is stated to be 5.9.37), and it is also not denied that applicant has been promoted as Asstt. Commissioner(Fisheries).

12. As Respondent No.4 has since retired from service on superannuation, and the main grievance of applicant, which was for promotion as Asstt. Commissioner(Fisheries) has been redressed, we are not inclined to interfere in this OA which is accordingly disposed of. No costs.

Kuldeep
(KULDIP Singh)

MEMBER (J)

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(S.R.ADIGE)
VICE CHAIRMAN (A)

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