

Central Administrative Tribunal
Principal Bench
New Delhi

O.A. No. 933/94

Decided on 5.1.99

(24)

S. S. Kumar Applicant

(By Advocate: Shri G. D. Gupta.)

Versus

Union of India & Ors. Respondents

(By Advocate: Sh. K. R. Sachdeva.)

CORAM

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

HON'BLE DR. A. VEDA VALLI, MEMBER (J).

1. To be referred to the Reporter or Not? YES
2. Whether to be circulated to other outlying benches of the Tribunal or not? No.

Adige
(S. R. Adige)
Vice Chairman (A)

(25)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A. No. 933/94

New Delhi: this the 5th day of JANUARY, 1994.

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

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri S. S. Kunwar,
S/o Shri R. C. Kunwar,
R/o Sector-IV, Quarter No. 725,
R.K.Puram,
New Delhi- 022
(By Advocate: Shri G. D. Gupta)

....Applicant

Versus

Union of India
through
the Secretary to the
Govt. of India,
Ministry of Textiles,
UDYOG Bhavan,
New Delhi

2. The Development Commissioner for Handicrafts,
West Block VII, R.K.Puram,
New Delhi - 066

....Respondents.

(By Advocate: Shri K. R. Sachdeva)*

*Shri Sachdeva appeared later.

ORDER

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

Applicant impugns respondents' letters
dated 8/13.7.93 (page 243 of OA) and 5.8.93
(page 241 of OA) and complains against his
non-promotion.

2. Applicant was appointed as Dy. Director R.D.
& TDC, under office of Development Commissioner,
Handicrafts; Ministry of Textiles on 20.6.71 as a
direct recruit through selection by U.P.S.C.
Aggrieved by lack of promotional opportunities
with particular reference to the Recruitment
Rules of 1985 for promotion to the post of Regional
Director, Handicrafts, applicant filed OA
No. 1261/90 which was disposed of, after hearing both
parties by order dated 14.11.91 (Annexure-A/14). In

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that order it was noted that any good system of Govt. did require for its employees to be provided adequate promotional avenues to ensure efficiency and motivation. The OA was disposed of leaving it to respondents to see the desirability of considering applicant's case, in the light of guidelines, discernable from the various rulings of the Hon'ble Supreme Court and also the instructions issued from time to time in this regard, and to devise such measures as they deemed fit to remove applicant's grievances in this respect.

3. After pronouncement of the aforesaid order dated 14.11.91 applicant waited for its implementation and not being communicated with any decision thereon, filed representations on 4.12.91; 17.2.92; 27.4.92 and 11.5.92 for early implementation. Upon receiving no response, he filed OA No. 127/93. That OA was disposed of by order dated 16.3.93 directing respondents to consider his representation appropriately and communicate their decision to him within 4 months. On 8/13.7.93 respondents sent applicant impugned interim reply, stating that Govt. had tried to upgrade the post of Dy. Director, RDTC (Rs. 3000-4500) as Director, RDTC (Rs. 3700-5000) so as to provide a channel of promotion to applicant and other Dy. Director, RDTCs but the same could not materialise due to existing Govt. policy banning creation of posts on non-plan side. However, efforts were still being made to provide a channel of promotion to Dy. Director, RDTC in particular, but the proposal had to pass through various Central Govt. Ministries/ Deptts.

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for concurrence/approval which was a time consuming process. This was followed. This was followed by impugned final reply dated 5.8.98 confirming that it had not been possible to upgrade the post of Dy. Director (Rs. 3000-4500) as Director (Rs. 3700-5000) as personal to applicant in view of the ban on creation of non-plan posts and it had not been possible to keep applicants' post in the feeder cadre of promotion to any of the available higher posts.

4. It is not denied that the recruitment rules have since been amended to provide for promotional opportunities from the post held by applicant, but unfortunately applicant retired on superannuation a shortwhile before the amendments were notified and he has therefore unfortunately been denied the benefit of these amendments.

5. We have heard applicant's counsel Shri G. D. Gupta. We had also heard respondents' counsel Shri Sachdeva earlier and had asked him whether in the facts and circumstances noticed above, anything could be done by respondents for the applicant on purely compassionate considerations, to which he has given no positive answer.

6. This is a case which brings out the truth of the aphorism that one man sows while another person reaps. The rules and instructions that stood prior to applicant's superannuation did not permit respondents granting him the relief prayed for and no rule, instruction or judicial pronouncement have been cited by applicant's counsel which give applicant an

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enforceable legal right to compel respondents to promote applicant in accordance with RRs which have been amended after he has retired on superannuation, from a date while he was still in service.

7. Under the circumstances, we find ourselves unable to grant the relief prayed for by the applicant and the OA is dismissed. However, having regard to the facts and circumstances, if respondents out of compassionate considerations are themselves disposed to do something for the applicant, nothing contained in this judgment will act as a bar to their doing so. No costs.

A. Vedavalli
(DR. A. VEDAVALLI)
MEMBER(J)

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

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