

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

RA 303/2003

IN

OA 1765/1995

Nov. 2003

New Delhi this the 14th day of October, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri R.K.Upadhyaya, Administrative Member

Shri P.R.Seniaray,
Son of Late Shri R.R.Seniaray,
R/O 5/189, Sunder Vihar,
New Delhi-110067

..Petitioner

VERSUS

1. Union of India through
Secretary to the Government of
India, Department of Personnel
and Training, North Block,
New Delhi.
2. Secretary,
Department of Agriculture,
Krishi Bhawan, New Delhi.
3. Director General,
Indian Council of Agricultural
Research, Krishi Bhawan,
New Delhi.

..Respondents

O R D E R (By circulation)

Shri R.K.Upadhyaya, Administrative Member:

This review application has been filed by the applicant seeking review of the order dated 26.8.2003 in OA No.1765/1995. The main prayer of the applicant by this review application is that the promotion be made w.e.f. 8.1.50 and not w.e.f. 29.11.50 as has been held by this Tribunal in the aforementioned order dated 26.8.2003. The applicant has also made a prayer for grant of interest on account of his promotion.

By MA No.2228/2003, the applicant has asked for arrears of pay with interest etc. w.e.f. 8.1.50 instead of 29.11.50.

Concurred

BX

2. By order dated 26.8.2003 in OA No.1765/1895, the Tribunal has directed the respondents "to allow arrears of pay arising from promotion of the applicant as Assistant Grade IV of Central Secretariat Service w.e.f. 29.11.50." While giving above directions, the Tribunal had taken into consideration the facts and arguments as follows:

"7. The applicant had "requested for retrospective promotion against vacancies of Assistant in ICAR w.e.f. 8.1.50 or 29.11.50". Accordingly, the respondents by their order dated 7.4.1984 promoted the applicant to officiate as Assistant in the grade IV of the Central Secretariat Service w.e.f. 29.11.1950. However, his promotion was with the following stipulation:-

"His pay on such promotion will be notionally fixed with reference to that date but no arrears of pay arising therefrom respect of the period prior to the date of actual promotion as Assistant in 1957, would be admissible."

8. At the time of hearing, the learned counsel of the applicant confined his claim regarding arrears of pay etc. w.e.f. 29.11.1950 (not w.e.f. 8.1.1950). He invited attention to the orders dated 16.2.1987 in TA No.677/1985 of this Tribunal in the case of Shri Amer Singh Vs. Union of India and etc., wherein arrears for the period of notional promotion were allowed. The learned counsel of the applicant stated that similar benefit be allowed to the applicant, as there was no justification to refuse the monetary benefits arising out of antedating of promotion of the applicant as Assistant."

3. After considering the contentions, raised in this review application as well as MA, it is noticed that the applicant is trying to make altogether a new case than it was before the Tribunal at the time of the hearing. The scope of review under section 22 (3) (f) of the Administrative Tribunals Act, 1985 is limited to review of only plain and apparent errors and mistake or for review of the order on account of some new and important matter available which could not be brought to the notice of the Tribunal at the time the order was made as the same was not within the power of the applicant. A review could also be

Ch. Bhagat

considered if the decision of the Hon'ble Supreme Court was not taken into consideration. None of these situations are available in this case. On the other hand, as brought out in para 7, the applicant himself had asked for promotion either from 8.1.50 or from 29.11.50. The respondents have accepted his claim of promotion w.e.f. 29.11.50 as that was the date when the next available vacancy of Assistant had arisen. Merely because there was a vacancy on 8.1.50, it does not mean that the applicant should be given promotion from that date. In any case, the respondents have accepted the plea of the applicant to promote him w.e.f. 29.11.50. At the time of hearing, the applicant along with his counsel was present in the court and as has been recorded in para 3 of the order reproduced earlier, the learned counsel of the applicant had confined his claim regarding arrears of pay etc. w.e.f. 29.11.50 (and not w.e.f. 8.1.50). The case was not argued that his promotion should be made effective from 8.1.50. The applicant was granted promotion vide order dated 7.4.84 which reads as follows:-

"The President is pleased to appoint Shri P.R.Seniaray, IIIrd Division Clerk in the Department of Agriculture and Co-operation to officiate as Assistant in the Grade-IV of the Central Secretariat Service with effect from 29.11.1950. His pay on such promotion will be notionally fixed with reference to that date but no arrears of pay arising therefrom in respect of the period prior to the date of actual promotion as Assistant in 1957, would be admissible.

2. Shri Seniaray will not, however, be eligible to the fixation of seniority in the grade of Assistant on the basis of adhoc promotion as officiating Assistant in the grade of Assistant with effect from 29.11.1950. However, his name will be considered by the cadre authority for inclusion in the Select List of Length of Service Quota with effect from the revised deemed date of regular promotion as Assistant with reference to his junior considered for such inclusion. Thus he will be eligible for notional pay fixation with reference to his junior after he is found fit for such inclusion in the Select List of Section Officer Length of Service Quota after screening his C.R. by the Selection Committee."

Ch. B. Jayaram

4. At the time of hearing, the applicant had confined his claim to the payment of arrears arising out of the notional promotion and not antedating promotion. Therefore, by this RA the applicant intends to reargue the case which is not permissible under the provisions relating to power of review in the Administrative Tribunals Act, 1985. In this connection, reference may be made to the decision of the Hon'ble Supreme Court in the case of Subhash Chand Vs. State of Maharashtra & Ors. (AIR 2002 SC 3537). In this view of the matter, this review application being devoid of merits, is rejected at the circular stage itself.

5. For the same reason, MA No.2226/2003 seeking the same relief by way of rectification is rejected.



(R.K.Upadhyaya)
Administrative Member



(Smt. Lakshmi Swaminathan)
Vice Chairman(J)

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