

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1358/94

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New Delhi this the 7th Day of July 1994

Shri J.P. Sharma, Member (J)

Shri S.R. Adige, Member (A)

Shri P.P. Aggarwal,
S/o Shri D.C. Gupta,
Resident of Flat No. 9,
Kidwai Bhawan, Janpath
Working as (J.A.G.),
Deputy General Manager under
Respondents
(By Advocate: T.C. Aggarwal)

... Applicant

Vs.

Union of India
through

1. The Secretary,
Ministry of Communications,
Sanchar Bhawan,
20 Ashoka Road,
New Delhi.
2. The Secretary,
Department of Personnel & Training,
North Block,
New Delhi.

... Respondents

ORDER

Hon'ble Shri J.P. Sharma, Member (J)

The applicant joined as Assistant Divisional Engineer (Telegraph) ADET on 1.4.1966. The respondents issued a combined order vide Notification dated 23.1.1984 (Annexure AI). By this the applicant was appointed to the Junior Scale of Engineering Services, Class I with effect from 6.2.1972. The name of the applicant is at Serial No. 33. The next promotion is to the Senior Time Scale of the service from the combined gradation list of feeder grade. The applicant made certain representations as the name of the applicant was missing from the Memo dated 2.4.1975.

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A Notification of promotion of the officers of J.T.S. of TES Class I to the STS of the service, though the name of the junior of the applicant Shri V.C. Alexander and Shri A.K. Bhatnagar and others find mention in the said list. The applicant was informed by the Memo dated 25.3.1994 that the applicant was considered by D.P.C. and was declared fit for promotion only in March 1972 subject to the condition of passing the departmental examination which he passed in December 1972. He was given the benefit of seniority in STS based on September 1971 D.P.C. In the meantime a few officers below the applicant had already been promoted on regular basis to the STS grade and as such the applicant became junior to those officers.

2. In this application the applicant has prayed for the grant of the relief that the direction be issued to Respondent No. 1 to consider the applicant for promotion and seniority in STS of TES Class I in accordance with the rules vis-a-vis his juniors in the gradation list Annexure AI with all consequential benefits.

3. We heard the applicant's counsel at admission stage at a greater length. It appears that the applicant had earlier filed Civil Writ 877/78 before the High Court which came on transfer to the Principal Bench and registered as T-407/85 and was decided by the judgement dated 24.4.1986. In that Writ Petition the applicant has also raised the issue of his confirmation in Junior Time Scale which was made with effect from 6.2.1972 by the Notification dated 23.1.1974. He has also stated in the earlier Writ Petition that he was posted ~~Assistant~~ Divisional Engineer, Telephones with effect from 15.3.1973 which is a post in the Senior Scale of the Service and he was posted at Bombay. The

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applicant learnt that certain appointments were made to the Senior Scale of the Service substantatively ignoring the applicant. He therefore claimed in that Writ Petition that he was entitled to be promoted in order of seniority but he was never considered and was never found unfit by the competent authority or by any duly constituted D.P.C. That transfer application was dismissed by an elaborate order. A perusal of the judgement shows that the issues raised in the present application as well as the grounds taken for the grant of the relief had already been discussed in the judgement of T-407/85 from Paras 6 to 15 of the judgement. The present application, therefore, is barred by the principle of res judicata and is not maintainable. The application, therefore, is dismissed at the admission stage itself.

S.R. Adice
(S.R. Adice)
Member (A)

J.P. Sharma
(J.P. Sharma)
Member (J)

Mittal