

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...

OA.No.1082 of 1994

(1)

New Delhi, this 3rd day of August, 1999.

HON'BLE MR. JUSTICE D.N. BARUAH, VICE CHAIRMAN
HON'BLE MR. N. SAHU, MEMBER(A)

R.K. Tikania
S/o Shr Late Puran Chand
Working as Supdt. in the office of
Indian Agriculture Institute & resident of
1K/97 N.I.T. Faridabad-I
Haryana. ... Applicant

By Advocate: Shri P.L. Mimroth

versus

1. Union of India, through
Secretary
Ministry of Agriculture
Krishi Bhawan
New Delhi.
2. The Director General
Indian Council of Agricultural
Research, Krishi Bhawan
New Delhi-110001.
3. The Director
Indian Agriculture Research
Institute, Pusa
New Delhi-110012. ... Respondents

By Advocate: Shri V.S.R. Krishna

O R D E R (ORAL)

BARUAH.J(VC)

This OA is directed against the order dated 15.2.85 and letter dated 1.3.94. The applicant also seeks direction to the respondents to regularise and count the ad hoc service rendered by him as Assistant for the period from 27.5.77 to 28.2.80 for the purpose of seniority and other benefits. He also prays that the seniority be refixed after taking into

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account the period of ad hoc service rendered by him during the same period. Besides this, the applicant also prays for a direction to set aside the directions of the respondents to refund the money. (3)

2. The facts are: the applicant is a member of Scheduled Caste community. He was initially appointed Lower Division Clerk in the month of July 1996 under the respondents. Later on he was promoted to the post of Upper Division Clerk on 18.7.69. According to the applicant, he became eligible for promotion of Head Clerk/Assistant as far back in 1972-73. But the said post could not be filled up as the seniority list of the Senior Clerk was not finalised being disputed. The applicant was, in the circumstances, promoted to the post of Assistant on ad hoc basis against the regular vacancies with effect from 27.5.77 along with other candidates on the basis of 40 point roster. He further states that his ad hoc promotion was against the regular vacancies and it was in accordance with rules and also it was not stop gap arrangement. Later on in this way he was working as Assistant from the date of his ad hoc promotion and ultimately on recommendations of the Selection Committee his appointment was regularised with effect from 1.3.80. It is also informed by the learned counsel for the parties that the applicant was further promoted to the post of Superintendent. On regularisation he was given seniority from

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the date of his regularisation along with others. According to applicant, as per the settled principle, he was entitled to get his seniority, other benefits from the date of his ad hoc promotion as the promotion was lateron regularised on the basis of due selection. He submitted that representation submitted by him was also rejected. Hence the present application.

2. We have heard Shri P.L. Mimroth, learned counsel appearing on behalf of the applicant and Shri V.S.R. Krishna, learned counsel appearing on behalf of the respondents and have also gone through the pleadings on record.

4. Written statement has been filed by the respondents. Learned counsel for the applicant submits that as per the rules if a person is promoted on ad hoc basis and lateron regularised, he should be given seniority from the date of his ad hoc appointment. Learned counsel for the respondents, on the other hand, submits that the applicant's ad hoc promotion itself was contrary to the rules inasmuch as roster point was not properly calculated though he was put in on ad hoc promotion. Because of this, the period from the date of his ad hoc promotion to the date of his regular appointment should not be counted for the purpose of seniority and other benefits.

5. We find that at the time ^{an} the ad hoc promotion was given on 22.5.77/ almost about

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three years later when the Selection Committee examining the matter, found him suitable, we do not know why this mistake could not be detected at the time of selection. We understand that the selection was made by persons expert in all those areas, but it was not detected even after his regularisation. It continued for next five years and only after five years when it was detected by the respondents, ^{the period of} his ad hoc promotion had not been regularised. However, respondents have not come forward with details why the mistake could not be detected and in any way the roster system was incorrectly followed. We do not consider it just and proper to deny the seniority and other benefit which the applicant was entitled to... from the date of his ad hoc promotion till the regularisation. Besides, respondents have not stated in the counter that the applicant was, at the time of the ad hoc promotion, not qualified or not eligible for promotion. Learned counsel for the respondents has nothing to say in this regard.

6. Considering the entire facts and circumstances of the case, we are of the opinion that the respondents have unreasonably denied the seniority and other benefit to the applicant for the period from 1977 to 1980, i.e. from the date of his ad hoc promotion to the regularisation. Therefore we quash and set aside the order dated 15.2.85 and letter dated 1.3.94 and direct the respondents to give the

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applicant seniority from the date of his ad hoc promotion. This should be done within a period of two months from the date of receipt of a copy of this order.

No order as to costs.

N. Sahu

(N. Sahu)
Member(A)

D.N. Baruah

(D.N. Baruah)
Vice Chairman(J)

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