

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO. 223/2000

New Delhi this the 6th day of July, 2000.

(4)

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

Shri Duli Chand,  
S/o late Shri Kanwal Singh,  
R/o Qtr.No.342, Income-tax Colony,  
U.Pritam Pur, Delhi-34.

... Applicant

( None )

-Versus-

1. The Chief Commissioner of Income-tax  
New Delhi.

2. Director of Income-tax Exemption,  
Trust Circle No.1, 7th Floor,  
Mayur Bhawan,  
New Delhi.

... Respondents

(By Shri V.P.Uppal, Advocate)

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

Applicant and his Advocate are absent. We have heard Shri V.P.Uppal, learned counsel appearing for the respondents. We have proceeded to dispose of the OA on merits in the absence of the applicant and his Advocate in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. Applicant was promoted to the post of U.D.C. on ad hoc basis on 22.10.1984. The order of ~~appointment~~ <sup>promotion</sup> is to be found at Annexure A-IV. The same

Se. J.

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contains the following recitals:-

"These ad-hoc promotions are made against the vacancies allocable to direct recruitment quota. They should note that they are liable to reversion immediately if the candidates sponsored by the Surplus Cell/Staff Selection Commission to be deployed against direct recruitment quota vacancies become available or if after a review of the vacancies it is found that their promotions are in excess of the vacancies available."

3. Applicant was thereafter promoted as U.D.C. on regular basis on 5.5.1989 vide Annexure A-V. By the present OA, he claims promotion as U.D.C. on regular basis with effect from 22.10.1984, the date on which he had been promoted to the said post on ad hoc basis. In our view, the cause of action for filing the present OA containing the aforesaid prayer arose on 5.5.1989 when the aforesaid order granting him promotion <sup>with effect</sup> from 5.5.1989 ~~itself~~ was issued. Present OA which has been filed after a lapse of about 11 years is accordingly hopelessly barred by limitation.

4. Even on merits, we find that the applicant has no case for claiming the aforesaid relief. He has not been promoted as per rules in that behalf. His promotion granted on 22.10.1984 on ad hoc basis was against the vacancies allocable to direct recruitment quota. He was liable to be reverted on direct recruits becoming available. The Supreme Court in the case of Food Corporation of India vs. Thaneswar Kalita

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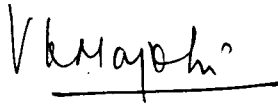
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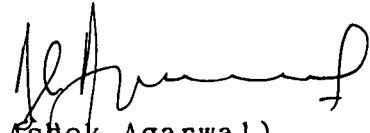
and Others., (1995) (3) SCC 342 has observed as under:-

"In this case, admittedly, the promotion of the respondents was not in accordance with rules; but they were employed on ad hoc basis due to the exigencies of non-availability of the direct candidates. Thereby, it is clear that the respondents were not promoted according to rules. In other words, they were promoted de hors the rules. Though they have continued for a long time, the entire length of service should be considered as fortuitous and should not be counted towards their seniority. The High Court, therefore, was clearly in error in directing to treat their entire service as on regular basis."

5. The case of the applicant is on all fours with the case before the Supreme Court. Applicant's promotion was de hors the rules. He has been promoted on ad hoc basis due to the exigencies of non-availability of direct candidates. In the circumstances, the applicant is not entitled to the relief claimed.

6. Present OA in the circumstances is dismissed, however, without any order as to costs.

  
(V.K. Majotra)  
Member (A)

  
(Ashok Agarwal)  
Chairman

sns.