

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 233/2000

New Delhi this the 3rd day of July, 2000.

(5)

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

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

Capt. K.S. Malhotra
S/O P.S. Malhotra,
Junior Staff Officer,
Directorate of Civil Defence
and Home Guards,
Delhi.

... Applicant

(By Shri M.C. Dhingra, Advocate)

-Versus-

1. Union of India through
Lt. Governor,
Raj Niwas, Delhi-110054.
2. Delhi Administration
through Chief Secretary,
5, Sham Nath Marg,
Delhi-54.
3. Director General,
Home Guards-cum-Director
Civil Defence,
Nishkam Sewa Bhawan,
Directorate General of Home Guards
and Civil Defence, Raja Garden,
New Delhi-110027. ... Respondents

O. R. D. E. R. (ORAL)

Shri V.K. Majotra, AM :

Though the respondents have been served, a departmental representative appeared only once on 7.3.2000. None is present even today on behalf of the respondents when we have taken up the case for final disposal. In the circumstances, we proceed to dispose of the case in the absence of the respondents under Rule 16 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. The applicant, an ex-Army officer, is aggrieved of the fact that though he has put in 29 years of service as Junior Staff Officer (CTI) (a

Group-B post), he has not been accorded any promotion although one vacancy each in the higher posts of Commandant (CTI) and Senior Staff Officer (CD) exist in the department. The applicant has alleged that the deliberate omission of the respondents in not promoting the applicant is in violation of law laid down by the Hon'ble Supreme Court and also is violative of the policy of the Government under the Assured Career Progression Scheme.

(6)

3. The applicant joined the Indian Army as Emergency Commissioned Officer (Group-A) in 1963. He was released in 1968 while holding the rank of a Captain. He joined as Junior Staff Officer (CTI) (Group-B) under the Delhi Administration on 15.7.1971. He has alleged that though he had been selected for regular appointment, his appointment was wrongly stated as ad hoc. In January, 1979, the Union Public Service Commission recommended regularisation of applicant's appointment. The applicant had been compelled to approach this Tribunal vide O.A. No.134/87 whereupon the order giving regular appointment to the applicant was released on 30.1.1987 (Annexure A-1). According to the applicant, the vacancy in the post of Commandant (CTI) (Group-A) occurred on 1.2.1983. However, the applicant was not considered for promotion and instead one Shri C.M. Narula, SSO(CD) was promoted. The applicant made representation on 25.10.1985 to respondent No.2 seeking promotion to the post of Commandant (CTI). He also submitted reminders on 21.5.1986, 18.6.1986 and 15.10.1986. The applicant claims that the respondents have been calling upon the applicant to discharge

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duties involving higher responsibilities as Commandant (CTI) etc. but he has been denied any promotion till today. The periods during which the applicant has worked as Commandant (CTI) to which post he is seeking promotion since 1983, and SSO(CD) are detailed in para 4.48 of the O.A. which read as under :

"AS COMMDNDANT (CTI)"

(a) 01.08.84 to 02.07.86 = 1 Year 10 Months
(b) 30.11.88 to 31.08.89 = 9 Months
(c) 03.06.97 to till date = 2 Years 7 Months
TOTAL = 5 Years 2 Months

AS SSO(CD)

(a) 04.11.96 to 12.04.99 = 2 Years 4 Months

AS COMMANDANT HOME GUARDS/SSO(HG)

(a) 19.05.97 to 02.12.98 = 2 Years 6 Months"

In this manner, the period of service rendered by the applicant as Commandant (CTI), SSO(CD) and Commandant (HG) works out to nine years. Thus, according to the applicant he has already rendered service in the feeder post(s) for being eligible to be considered for promotion to the post of Deputy Director (Civil Defence)-cum-Deputy Commandant General (HG).

4. The applicant has also alleged that whereas on the one hand he has not been considered for promotion to the post of Commandant (CTI) in the year 1983 and for promotion to the post of Deputy Commandant General (HG)-cum-Deputy Director (Civil Defence) from 1988, ^{on the other} he has also not been accorded any benefit of the Assured Career Progression Scheme under which he is entitled to be promoted w.e.f. 1983 and 1995, i.e., one promotion in 12 years as assured by the Government by accepting the recommendation of the Fifth Pay Commission.

5. The applicant has declared that he has previously filed O.A. Nos. 134/87, 886/88, 1741/89, 2719/91, 2353/93 and 1930/94. In O.A. No. 134/87 the relief of regularisation on the post of JSO(CTI) was granted but that relating to promotion to the post of Commandant (CTI) was not granted finding that he has no right for promotion and that he has only a right to be considered for promotion. Applicant's challenge to the appointment of an outside cadre officer as Deputy Commandant General (HG)-cum-Deputy Director (Civil Defence) was held to be infructuous in O.A. No. 886/88. In O.A. No. 1741/89 ad hoc promotion of another officer was quashed. In O.A. No. 2719/91 the Tribunal directed the department to take necessary action within six months for framing of new recruitment rules for the post of Commandant (CTI). In O.A. No. 2353/93 the Tribunal restrained an ad hoc promotee from writing the applicant's ACRs. O.A. No. 1930/94 also became infructuous because the new recruitment rules for promotion to the post of Commandant (CTI) were framed in 1995. The applicant has claimed that none of the aforesaid cases involved Assured Career Progression Scheme which came into operation in August, 1999; therefore, none of them would operate as res judicata to the present O.A. which is related to the ACP Scheme.

6. At this stage, the learned counsel for applicant after seeking instructions from the applicant has stated that the reliefs sought at paragraphs 8.1 and 8.2 of the O.A. are not pressed. Thus the only relief left for consideration is that the respondents should be directed to implement the

Assured Career Progression Scheme w.e.f. 1983 when the applicant completed 12 years of service and for the second promotion under the Scheme w.e.f. 1995 on completion of 24 years of service.

7. In the facts and circumstances of the case, we find it just and proper that the applicant should be considered for grant of promotion under the Assured Career Progression Scheme on completion of 12 and 24 years of service. The respondents are, therefore, directed to consider the applicant for promotion on completion of 12 and 24 years of service as per his entitlement in terms of the aforestated Scheme within a period of three months from the date of receipt of a copy of this order.

8. The O.A. is accordingly disposed of. There shall, however, be no order as to costs.

V. K. Majotra

(V. K. Majotra)
Member (A)

Ashok Agarwal

(Ashok Agarwal)
Chairman

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