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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 469/2000

New Delhi, this 30th day of March, 2001

Hon'ble Shri Kuldip Singh, Member(J)

Hon'ble Shri M.P. Singh, Member(A)

Raj Kumar Tyagi

F-261, Gali No.20 (Mandir Wali Gali)

Sadh Nagar II, Palam Colony, New Delhi-45 .. Applicant

(By Shri Yogesh Sharma, Advocate)

versus

Union of India, through

1. Secretary

Ministry of Urban Affairs & Employment
Nirman Bhavan, New Delhi

2. Manager (Admn.)

Govt. of India Press
Ring Road, Mayapuri, New Delhi

3. Asstt. Manager (Admn.)

Govt. of India Press, Ring Road
Mayapuri, New Delhi


.. Respondents

(Shri R.V. Sinha, Advocate)

ORDER

By Shri M.P. Singh

The applicant is aggrieved by the order dated 31.1.97 by which he has been reverted from the post of Selection Grade Compositor-II (SGC-II, for short) to that of Compositor-II (C-II, for short) and also the orders dated 19.3.99 and 28.12.99 by which his representations against the reversion order have been rejected. He has also impugned the order dated 11.12.96 by which his request for regularisation of his ad-hoc appointment to SGC-II has been rejected. He is before us seeking directions to the respondents to quash these orders and to promote him as SGC-II on regular basis.



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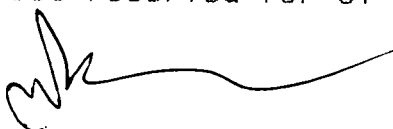
2. Briefly stated, the applicant joined service as C-II on 22.3.68 at Government of India Press, Simla and transferred to Delhi in the same capacity on 8.9.72. In the DPC held on 4.10.83 for promotion to SGC-II, applicant was not found fit for appointment to the said post as there were adverse remarks in his CR for the year 1980. A major penalty charge-sheet was issued to the applicant on 27.12.80 on the charge of misconduct. In the inquiry conducted against him, the charge was not proved and the applicant was exonerated by order dated 7.12.83. He was promoted as SGC-II on ad-hoc basis vide order dated 16.8.84 but was reverted by order dated 9.10.85. The applicant approached this Tribunal through TA 355/86 against the reversion. In the meanwhile reversion order dated 9.10.85 was withdrawn by order dated 6.3.86 and accordingly TA 355/86 was dismissed having become infructuous. By order dated 13.4.89 the adverse remarks communicated to him for the year 1980 were expunged. Thereafter, applicant made a representation for holding review DPC. On the basis of review DPC, applicant was promoted as SGC-II on regular basis w.e.f. 28.6.82 by order dated 8.6.90. However, the said order was kept in abeyance by another order dated 11.6.90. Applicant made a representation on 26.6.90 which was rejected by respondents order dated 11.12.96.

3. Respondents passed another order on 31.1.97 reverting the applicant to the post of C-II. He made representation on 10.3.97 which was rejected by order dated 19.3.99. His next representation dated 12.8.99



was also rejected by order dated 29.12.99. That is how the applicant is before us seeking the aforesaid reliefs.

4. Respondents in their counter have opposed the OA. They have submitted that in the DPC held on 28.6.82, the name of the applicant was not recommended for promotion. Again in the review DPC held on 4.10.83, applicant was not found fit as there were adverse remarks in his ACR. Out of 19 posts of SGC-II, two were earmarked for ST but could not be filled up due to non-availability of suitable ST candidates. Applicant was given ad hoc promotion as SGC-II from 16.8.84 without following the procedure against the reserved posts of ST. This action was struck down by R-1 with the result all the officials so promoted were reverted by order dated 9.10.85. The Fourth Pay Commission discontinued Selection Grade in Group C & D posts w.e.f. 1.1.86 and as such ad hoc promotion of applicant as SGC-II from 16.8.84 could not be regularised. He was promoted as C-II on regular basis w.e.f. 28.6.82 vide order dated 8.6.82 inadvertently and the respondents are very much entitled to rectify their bonafide administrative mistakes. As regards applicant's reversion to the post of C-II and rejection of his representation against the reversion are concerned, the respondents submitted that the applicant was to be reverted as a result of abolition of Selection Grade posts w.e.f. 1.1.86 as per the recommendations of the Fourth Pay Commission. Besides the applicant was promoted on ad hoc basis as SGC-II against the post reserved for ST candidate.



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5. As regards adverse remarks from the ACR of the applicant for the year 1980, respondents submit that the same were expunged on 31.3.89 because of which he could not be considered for regular promotion.

6. Respondents have also opposed the OA on the ground of limitation inasmuch as applicant's representation against reversion order was rejected due to abolition of Selection Grade w.e.f 1.1.86 and repeated unsuccessful representations not provided by law would not enlarge the period of limitation as has been held by the apex court in the case of S.S.Rathore Vs. State of MP AIR 1990 SC 10.

7. We have heard the learned counsel for the parties and perused the records.


8. The applicant has filed MA for condonation of delay in filing the present OA. He has taken the ground that after the reversion order was passed on 31.1.97, he made a representation on 10.3.97 and reminders but they were disposed of only on 19.3.99. Also the respondents kept the order dated 8.6.90 in abeyance but till date the same has not been implemented nor withdrawn and therefore the applicant has got a recurring cause of action. He has also taken the ground that his juniors are getting higher pay than him and therefore he is also entitled for the higher pay. However, the respondents have submitted that the MA needs no reply in view of the submissions made in the counter to the main OA. They have also denied that any of his juniors are getting higher salary than the applicant.



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9. As regards limitation, the learned counsel for the applicant has relied upon the decision of Bombay Bench of this Tribunal in OA No.515/96 decided on 14.2.97 [1998(1)(CAT) SLJ 209], to contend that limitation starts from the date of disposal of representation. However we find that the issue involved in that case was that of a person who retired in 1992 but filed the OA in 1992 seeking compassionate appointment to his son. Therefore, this judgement would not help the applicant. Yet another case relied upon by the counsel is that of the apex court in the case of R.K. Singh Vs. State of UP 1991 SCC(L&S) to contend that the applicant should have been given promotion from the date he was eligible and not from any date after expunction of adverse remarks. In the instant case, the applicant was given promotion inadvertently to selection grade in 1984, that too against the posts earmarked for ST, which was abolished by the fourth Pay Commission from 1.1.86. Therefore the applicant cannot claim promotion to selection grade beyond that date. Thus the judgement of R.K. Singh (supra) is also not applicable to him.

10. In the light of the detailed discussions above, we find no merit in the present OA and the same is dismissed accordingly. No costs.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)

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