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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.655/2000

New Delhi this the 18th day of May, 2001

HON'BLE MR. V.K. MAJOTRA, MEMBER(A)
HON'BLE MR. SHANKER RAJU, MEMBER (J)

Shri Ashok Kumar Kaura
S/o Late Shri Amar Nath Kaura
R/o 106, Sector-12, R.K. Puram
New Delhi-110022

-Applicant

(By Advocate: Shri N.L. Bareja)

Versus

1. Govt. of India, through
Its Secretary to Govt. of India
Ministry of Home Affairs
Department of Official Languages,
(Cadre Controlling Authority)
Lok Nayak Bhawan, New Delhi.
2. The Secretary,
Ministry of Water Resources
Shram Shakti Bhawan,
Rafi Marg, New Delhi-110001.
3. The Director (Official Languages)
Head of the Department
Central Water Commission
Room No. 308, Sewa Bhawan,
R.K. Puram, New Delhi.

-Respondents

(By Advocate: Shri P.P. Rehlan proxy for
Shri J.B. Mudgil)

O R D E R

By Shri V.K. Majotra, Member (A)

The applicant was appointed as Lower Division Clerk on 17.3.1969. On clearing the Departmental competitive examination for the post of Grade-III held in October 1976, he was appointed as Stenographer (Grade-III) in the Central Secretariate Stenographers Service cadre (for short 'CSSS') in the Department of Agriculture with effect from 27.12.1976. On the basis of tests held for the post of Hindi Translator in the year 1980, he was appointed as Junior Hindi Translator in the year 1980 against an Ex-cadre post. The Central Secretariat Official Language



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service (for short 'CSOLS') came into existence in the year 1981. The applicant opted to switch over to the Central Secretariat Official Language Service instead of reverting to his parent cadre CSSS. He is now working as Sr. Translator in the Central Water Commission. The applicant was promoted to the post of Senior Hindi Translator on ad hoc basis on 30.4.1989 in the pay scale of Rs. 1640-2900 and was regularised as such in September 1994. The applicant has pointed out that the department had inducted candidates as Sr. Hindi Translators in the years 1990-93 through open direct competition. The applicant has challenged seniority of the direct recruits appointed during the years 1990-93 and claimed seniority and promotion on the basis of continued officiation on the post of Hindi Translator since 30.4.1989. He has claimed the following reliefs:-

"i) refixing his seniority in his previous cadre i.e. Central Secretariate Stenographers Service at par with his colleagues in the Ministry of Agriculture; or

ii) giving him an equivalent status/grade and pay scale being drawn by his colleagues and even his juniors who were enrolled alongwith him and thereafter as Lower Division Clerks/Stenographers who are presently enjoying the status and pay of Section Officer/Private Secretaries, a Gazetted post; or

iii) considering him senior to the Senior Hindi Translator inducted during the period 1990-93 and also to comply with the instructions stipulated in O.M. dated 9.8.1999 regarding Assured Career Progression Scheme".

2. In their counter, the respondents have contended that demand of the applicant to refix his seniority in the previous cadre is unjustified after a ^{long} gap of 20 years.

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They have further stated that ad hoc service rendered by him does not bestow any claim/right of seniority in the grade. According to the respondents, the Assured Career Progression Scheme (for short 'ACPS') was introduced w.e.f. 9.8.99 and only those employees who were appointed as Direct Recruits in the grade are eligible for the first and second financial upgradation after completion of 12 years and 24 years of regular service. As the applicant was promoted as Senior Translator in 1994 but since the ACPS is made effective w.e.f. 9.8.1999, he cannot be considered for first upgradation. He will be considered for second financial upgradation after completion of 24 years regular service provided he does not get promotion to the grade of Assistant Director (OL) on a regular basis.

3. We have heard the learned counsel of both sides and considered the material on record.

4. The first issue arising in the present case is regarding limitation. The applicant claims his seniority as Senior Hindi Translator w.e.f. 1989 on the basis of continued officiation followed by regularisation on 30.4.1989 vis-a-vis direct recruits of the years 1990-93. The applicant has also sought benefit under the ACP Scheme on the basis of having joined as Hindi Translator since 1981. It has further been contended on behalf of the applicant that in case the applicant is not accorded benefit of ACP or continued officiation as Senior Hindi Translator w.e.f. 1989, he should be accorded equivalent status/grade and pay scale drawn by his colleagues and juniors who were enrolled as LDC in 1969. The learned counsel of the applicant contended that the applicant has

been making repeated representations, (Annexure A-2) dated 13.7.98 and 9.10.98 and that he also served a legal notice dated 8.11.99 on the respondents which remained unrepplied.

5. The cause of seniority vis-a-vis the direct recruits appointed as Senior Hindi Translators during the years 1990-93 through open direct competition arose for the applicant during those years or latest in September 1994 when he was regularised. He made belated representations in 1998. Obviously, the applicant has been sleeping over his rights, if there were any, which cannot cure latches. He was supposed to have pursued his rights and remedies promptly and not slept over his rights. In this regard reliance is placed on Ex.Capt. Harish Uppal Vs. Union of India & Ors. JT 1994 (3) SC 126 and A Hamsaveni and Ors. Vs. State of Tamil Nadu and Ors. 1994 SCC (L&S) 1277.

6. The applicant has also not impleaded the direct recruit Senior Hindi Translators recruited through 1990-93 against whom he has claimed seniority. The seniority of direct recruits of 1990-93 was settled when the applicant was regularised in 1994 and given seniority as Senior Hindi Translator effective from 1994. Petitions challenging seniority after in-ordinate delay cannot be entertained by the Courts. A person aggrieved by the seniority assigned to him has to approach the Court as early as possible. Seniority of direct recruits of 1990-93 has been settled for long and cannot be disturbed by the present kind of fruitless and harmful litigation particularly when lot of delay has been caused by the applicant and the direct recruits ^{are} likely to be affected if the sought for relief for refixing applicant's seniority vis-a-vis such direct

recruits is granted. The present application is barred by limitation and also suffers by latches and delays. We are relying on K.R. Mudgal & Ors. Vs. R.P. Singh & Ors. 1986(4) SCC 531, S.S. Rathore Vs. State of MP AIR 1990 SC 10, State of Punjab Vs. Gurdev Singh (1991) 17 ATC 287 and Bhoop Singh Vs. Union of India & Ors. JT 1992 (3) SC 322. We are also placing reliance on the ratio of B.S.Bajwa and another Vs. State of Punjab and another (1998) 2 SCC 523 in which it was held that matters relating to seniority cannot be reopened after a long lapse of time as that would unsettle the settled position.

7. Applicant's demand to refix his seniority in his previous ~~case~~ ^{service/cadre} is certainly unjustified in view of the fact that once an official opted out to be included in another service/cadre, he is deemed to have forfeited his lien in the previous service due to a long gap of time of about 20 years. Applicant's contention that he had not given his option for joining CSOL service after such a long time is not acceptable.

8. On behalf of the applicant, the next contention is that ad hoc service rendered by him since 1989 as Senior Hindi Translator followed by regularisation in 1994 bestows on him a claim/right ^{of} ~~of~~ seniority in that grade. ^{of} ~~of~~ could have been considered only if the OA was not hit by limitation and latches, and if he had taken up his cause within a reasonable period when he was affected by action of the respondents during 1994.

9. Applicant has also claimed benefit of ACP Scheme stating that since he joined CSOL service in 1981 he should be given benefit of the two financial upgradations under the Scheme. In this connection, the learned counsel of the respondents has pleaded that the ACP Scheme was introduced on 9.8.99. He completed 12 years of regular service in the grade of Junior Hindi Translator in September 1993. He was



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promoted on a regular basis as Senior Hindi Translator in 1984. ACP Scheme does not preclude the regular promotions. Since the applicant has already availed of the promotion of Senior Hindi Translator in 1994, he could be considered for the second financial upgradation after completion of 24 years regular service provided that he does not get promotion to the grade of Asstt. Director (OL) ^{in the normal course.} h This contention of the respondents is quite in-consonance with the provisions of the ACP Scheme and promotion Rules. Presently when the applicant has already been promoted as Senior Hindi Translator, he cannot be given the benefit of h ^{Accts} h upgradation und on unless he completes 24 years regular service from 1981 when he joined CSOL service.

10. As to the question of applicant's repatriation or according equivalence with his colleagues in CSSS in the Ministry of Agriculture, the same too cannot be entertained in the teeth of the provisions contained in FR-14(d) which reads as follows:-

"A Government servant's lien on a post shall stand terminated on his acquiring a lien on a permanent post (whether under the Central Government or a State Government) outside the cadre on which he is borne".

11. The applicant has been working in the CSOL Service since 1981. He has been regularised in the post of Senior Hindi Translator since 1984. Having acquired a lien on a permanent post in CSOL service, the applicant does not have a lien on any post in his previous cadre namely, CSSS. He can neither be repatriated to that service nor can he be put at par in matters of pay and allowances with members of that service.

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12. Having regard to the reasons and discussion made above, we do not find any merit in the present OA which is dismissed accordingly. No costs.

S. Raju

(Shanker Raju)
Member (J)

V.K. Majotra

(V.K. Majotra)
Member (A)

cc.