

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 938/2000

New Delhi this the 10th day of July, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

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

Shri S.K. Sharda,
S/o late Shri R.L. Sharda,
R/o A-2359, Netaji Nagar,
New Delhi-110 023.

... Applicant

(By Shri A.K. Behera, Advocate)

-Versus-

Union of India
The Secretary, Department of Industrial
Policy & Promotion,
Udyog Bhawan,
New Delhi.

... Respondents

(By Shri V.S.R. Krishna, Advocate)

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

Applicant who was substantively holding the post of Assistant in the office of the respondents was initially promoted on ad hoc basis as Section Officer on 16.6.1997. He has later on by the impugned order issued on 9.5.2000 been reverted back to his substantive post of Assistant. Aforesaid order is impugned in the present OA.

2. When applicant had been promoted on ad hoc basis as Section Officer on 16.6.1997, there were about 8 candidates holding the substantive post of Assistants, who were senior to him. The said seniors had not been promoted on ad hoc basis as at that time they did not possess the requisite eligibility criteria, namely of holding the substantive post of Assistant for a period of 8 years. When those seniors

had acquired the aforesaid eligibility criteria, they became eligible for being promoted also on ad hoc basis to the post of Section Officer. On their being promoted on the basis of their seniority in the post of Assistants, aforesaid order of reversion of the applicant has been issued.

3. Shri A.K.Behera, the learned Advocate appearing in support of the application has, however, brought to our notice an averment made in an MA instituted by the respondents being MA No.1359/2000 wherein it has inter alia been contended that on 1.5.2000, one Shri J.B.Sharma, a regular Section Officer, who was on deputation, joined back the department. One Section Officer was to be reverted in order to adjust Shri Sharma. Since Shri S.K.Sharda, applicant herein was the juniormost Assistant officiating as Section Officer on ad hoc basis, he was reverted as Assistant with effect from 1.5.2000. In our view, aforesaid averment will make no difference and will not adversely affect the order of reversion as there are as many as 8 to 9 Assistants, who are senior to the applicant in the office of the respondents and who are yet to be promoted as Section Officer.

4. Shri Behera has next contended that if reversion has to be resorted to, it is the principle of 'last come first go' in promotional posts which has to be followed. In our judgement, aforesaid contention is devoid of merit. In matters of promotion, it is the seniority in the feeder cadre, in this case in the cadre of Assistant, which will be relevant for granting promotion and directing reversion.

5. Shri Behera has relied upon a decision rendered by us in the case of Harmeet Singh & others vs. Union of India & others in OA No.57/2000 on 1.5.2000. Aforesaid decision, inter alia, lays down as under:-

"...If adhoc appointees who had been appointed as Executive Engineers on adhoc basis later in point of time to the applicants, they should be reverted prior in point of time to the applicants..."

Aforesaid order, in our judgement, does not make clear whether the same pertains to a situation which is at hand. All that the order suggests is that in case reversion has to be made, that has to be done on the basis of 'last come first go'. The same does not deal with a situation as the one arising in the present case, namely where seniors in the cadre of Assistants had not earlier been promoted on the ground that they had at the time of the earlier promotion of the applicant ^{was} not ~~been~~ possessing the requisite eligibility criteria.

6. Shri Behera has further placed reliance on paragraph 8 of Government of India OM No.9-11/55-RPS dated 22.12.1959 dealing with the general principles for determining seniority in the Central Services which provides as under:-

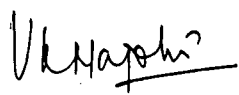
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"8. Persons appointed on ad hoc basis to a grade without consultation with the UPSC under Regulation 4 of the UPSC (Exemption from Consultation) Regulations, 1958, are to be replaced by persons approved for regular appointment by direct recruitment, promotion or transfer, as the case may be. Until they are replaced, such

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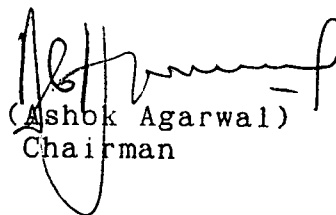
persons will be shown in the order of their ad hoc appointment and below all persons regularly appointed to the grade."

Aforesaid provision, in our view, regulates seniority. The same does not deal with ad hoc promotions. The same, therefore, cannot legitimately advance the submission of Shri Behera. As far as the present case is concerned, candidates who are senior to the applicant have been given ad hoc promotion. As far as ad hoc promotion given to the applicant is concerned, the same does not and cannot confer any substantive right on him to continue on the post. The moment his seniors become available, the applicant can legitimately be reverted back to his substantive post of Assistant.

7. Present OA in the circumstances, we find is devoid of merit. The same is accordingly rejected summarily. Interim orders earlier passed are vacated.


(V.K. Majotra)
Member (A)

sns/


(Ashok Agarwal)
Chairman