

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No 1287/1989
XXXXXX

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DATE OF DECISION 1.8.1991

<u>SHRI T.D. SHARMA</u>	Petitioner
<u>SHRI S.C. LUTHRA</u>	Advocate for the Petitioner(s)
Versus	
<u>U.O.I.</u>	Respondent
<u>SHRI P.P. KHURANA</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. J. C. Srivastava, Vice-Chairman (J)

The Hon'ble Mr. I.P. Gupta, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT

(DELIVERED BY SHRI U.C. SRIVASTAVA, HON'BLE VICE-CHAIRMAN (J)

The applicant, who during the pendency of this application has retited from service has prayed that the order dt. 17.6.1988 rejecting the relief of promotion to the rank of D.C.I.O. with retrospective effect, according to his seniority in the rank of A.C.I.O.-I be declared illegal arbitrary, null and void and the respondents be directed to promote him to the rank of D.C.I.O. according to the recommendations of D.P.C. in 1979-80 or in the alternative from the date as per his seniority from 11.7.1975 in the rank

of A.C.I.O.-I with all the consequential benefits including pension, gratuity, etc. and thereafter the order dt. 16.1.1989 passed by the respondents be also declared illegal, unconstitutional and arbitrary and the applicant be declared to be A.C.I.O.-I from 11.7.1975 for the purpose of seniority and other consequential benefits. The applicant was J.I.C.-I and A.C.I.O.-II from 10.12.1951 to 24.1.1957. The applicant started his service in the Intelligence Bureau as Junior Intelligence Officer and was appointed as A.C.I.O-II on 30.9.1955, which he held upto 24.1.1957. These posts were held by him on deputation as he originally belonged to the U.P. Police cadre. The applicant was sent back to the U.P. Police cadre, but subsequently again was reverted back under modified policy. A selection committee for considering the name of suitable persons on deputation out of those reverted U.P. Police, was constituted. The selection committee approved the name of 11 persons and 1 of them was the applicant. The applicant was again selected by Deputy Director, S.I.B. U.P. and Bihar, Lucknow and joined the same. The applicant was promoted to the post of A.C.I.O.-II w.e.f. 11.3.1964 and thereafter he was considered for being absorbed in Intelligence Bureau, Ministry of Home Affairs on permanent basis and absorption was also approved. The applicant submitted his willingness on 26.10.1976. The applicant says that ~~He was approved for further promotion as Deputy~~

Central Intelligence Officer in the year 1979-80 by the D.P.C., but his promotion was not allowed by the I.B. authorities as an objection was raised by the President of the Intelligence Bureau Staff Association not to promote him and others as D.C.I.O. as his seniority was not properly fixed. The applicant made efforts in this behalf, but to no effect and in the meantime, he retired on 31.12.1984 as A.C.I.O.-I. The applicant's representation was rejected vide order dt. 17.6.1988.

2. The respondents have resisted the claim of the applicant stating that only those officers are absorbed in the grade in which they have rendered 5 years' service on the crucial date fixed by the I.B. for permanent absorption. The applicant was absorbed in the I.B. as A.C.I.O.-II/G w.e.f. 1.4.1975.. One L.N. Naik and Baldev Singh and Another approached the Administrative Tribunal, who were also absorbed and it was observed that the absorbed persons are to be assigned seniority in the rank in which they were officiating on fixed date of permanent absorption in I.B. The applicant was officiating as A.C.I.O.-II on a fixed date, i.e., 1.4.1975 and that is why he was assigned seniority in the grade w.e.f. 1.4.1975 and thus according to the respondents, the applicant is seeking seniority in the rank against deputation quota in his officiating rank w.e.f. 11.7.1975. The applicant was considered for appointment to the post of Deputy Central

Intelligence Officer. However, he was not covered for appointment as D.C.I.O. because of the lower grading given by the D.P.C. and lower position in the list. In the meantime, he was assigned seniority in the rank of A.C.I.O.-II/G consequent on his permanent absorption w.e.f. 1.4.1975. The facts of the case make it clear that the seniority in the date of absorption was to be fixed in accordance with the judgement of the Central Administrative Tribunal and accordingly, the applicant was also absorbed w.e.f. 1.4.1975 ^{as A.C.I.O-II}. No matter whatsoever has been placed on the record as to how the applicant's date could be changed or as to how there can be any deviation from the judgement of Administrative Tribunal with which the departments were bound for the higher post. The applicant is claiming higher post when he was not treated favourably by the D.P.C. and was placed below in the list; obviously he could not get the promotion. In the case of Baldev Singh which was decided by the Central Administrative Tribunal, the applicant was also a party and the petitioner was allowed seniority from the date of absorption in the rank in which he was officiating on that date and that is why the same date was given to the applicant. In view of the facts stated above, the applicant has got no case. The petition is accordingly dismissed. There will be no order as to the cost.

AKS

I.P. Gupta
(I.P. GUPTA)
MEMBER (A)

U
(U.C. SRIVASTAVA)
VICE CHAIRMAN (J)