

8

Central Administrative Tribunal
Principal Bench, New Delhi.

OA-1806/89

New Delhi this the 19th Day of April, 1994.

Hon'ble Mr. C.J. Roy, Member(J)
Hon'ble Mr. B.N. Dhoundiyal, Member(A)

Shri I.V. Subrahmanyam,
C/o Shri R. Sundaram,
R/o C/112, Nanakpura,
New Delhi-21.

Applicant

(None for the applicant)

versus

1. Union of India
through the Secretary,
Ministry of Forests,
'B' Block, C.G.O. Complex,
Parivarayan Bhavan,
Lodhi Road,
New Delhi.

2. The Director,
Forest Research Institute,
New Forest Post,
Dehradun(U.P.).

(Presently)

Director General,
Indian Council of Forest Research,
F.R.I. and Colleges,
New Forest Post,
Dehradun(U.P.).

Respondents

(None for the respondents)

ORDER(ORAL)
delivered by Hon'ble Mr. C.J. Roy, Member(J)

This is an old matter pre-emptorily listed for hearing in the first ten cases. Therefore, we are proceeding to dispose of it on the basis of the record available in the file.

The applicant was a Research Assistant Grade-II in the Forest Department, Govt. of India. He claims that the training he was made quasi permanent after completion of three years of continuous service in the Grade-II in 1961. He claims that in 1976 the D.P.C. took into account the seniority list of 1967 against which the applicant was shown as junior to

Shri J.D. Jain and as such his case was not considered for promotion to the post of Research Officer on the ad hoc appointments dated 23.8.1976 in which 25 persons from the cadre of Research Assistant Grade-I were promoted to the post of Research Officers. The applicant claims that on his representation, his seniority was restored back and subsequent to that he made representations for notional promotion with effect from the date when his junior was promoted. Thereafter, the D.P.C. held on 22.10.1979 promoted the 27 persons. He claims that these promotions were made on the basis of the seniority list. Since the applicant's seniority was restored back, he should also have been considered by the D.P.C. He claims that his Confidential Reports are all right. Because of wrongful fixation of seniority at the time of earlier meeting of D.P.C. in 1976, he was not given his due promotion. He relies on a judgement dated 30.3.1988 of Allahabad Bench in the case of Sh. H.S. Ananthapadmanabha. The other points made by the applicant are not germane to the main issue. Since the applicant is aggrieved, he filed this O.A. claiming the following reliefs:-

- (a) Call for the records of the case, if necessary;
- (b) Pass an order directing the Respondents,
 - i) to promote the applicant to the post of Research Officer with effect from 23.8.1976 when his immediate junior Shri J.D. Jain was promoted in 1976 and to pay the arrears and other emoluments he would be entitled to alongwith other consequential benefits including the fixation of pay etc.
 - ii) to fix the seniority of the applicant and to allow him the consequential benefits;

- iii) to give notional promotion to the applicant on the basis of the judgement dated 30.3.1988 of the Central Administrative Tribunal Allahabad in transfer case No. 102/1986;
- iv) to allow the higher monthly pension on par with the other retired Research Officers;
- v) to award the damages, for the harassment, mental torture, annoyance, worry caused to the applicant because of his non-promotion in due time;
- vi) to award the cost of the suits, and monetary loss incurred by him, and

(c) pass such other or further order or orders as this Hon'ble Court may deemed fit under the facts and circumstances of the case.

The respondents have filed counter-affidavit stating that the application is not maintainable as it is barred by limitation. They also state that in compliance with the judgement dated 30.3.1988, the review D.P.C. meeting was held on 20.3.1989 in which the name of the applicant was also considered. However, the D.P.C. did not recommend him for promotion in the yearwise panel prepared by the Departmental Promotion Committee in compliance with the judgement. They further state that the persons recommended by the D.P.C. were appointed vide order dated 4.4.1989 (Annexure-G). They also state that the applicant's name was also considered by the D.P.C. for a second time. They further state that the ad hoc promotions to the grade of Research Officer from the feeder grade of Research Assistant Grade-I were made on the basis of seniority cum fitness after proper screening of the service records of the officer concerned. If the applicant was found fit for promotion, the D.P.C. would also have been promoted. Even after restoring his seniority, the D.P.C. having twice considered the applicant found unfit for promotion and therefore did not recommend his promotion. The adverse remarks made against the applicant in the confidential reports of 1991 were not satisfactory. Therefore, his name was also considered in the second review D.P.C. when all the files were placed

before the D.P.C. It is pertinent to mention that there could be nothing wrong by promoting a junior to the gradings like outstanding, verygood and good, are taken. It is not unlikely that sometimes that grading of the seniors if not outstanding and verygood and if the juniors are found outstanding and very good, they will get a weightage in the selection. Therefore, the ACRs containing no adverse remarks is not a ground for selection. On this point, we would not agree with the contention of the applicant. Since we find that the applicant's case was twice rejected by the review D.P.C. after considering his representations, we do not find any merit in the case. Accordingly, it is rejected.

No costs.

Anup Singh
(B.N. DHOUNDIYAL)
MEMBER (A)

Just for
(C.D. ROY)
MEMBER (J)

/vv/