

(17)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

D.A. No.2322/89

New Delhi this the 16th day of October, 1996.

Hon'ble Shri A.V. Haridasan, Vice Chairman (J)
Hon'ble Shri V. Radhakrishnan, Member (A)

Syed Ali Tahir Rizvi
s/o late Shri S.A.A. Rizvi,
r/o 7, Gautam Palli, Lucknow,

i) Employed as Secretary to
Chief Minister, U.P. and
Secretary, Information & Protocol,
Govt. of U.P.

ii) Office Address at
Annexe Bhawan, Room No. 523,
U.P. Secretariat,
Lucknow.

.....Applicant

(By advocate Sh. Manish Garg & Ms. Reena Bagga)

Versus

1. The Secretary,
Department of Economics Affairs,
Ministry of Finance,
Govt. of India,
New Delhi.

2. The Executive Director,
Indian Investment Centre,
New Delhi.

3. The Secretary,
Department of Personnel
and Administrative Reforms,
Government of India,
New Delhi.

.....Respondents

(By advocate Shri M.M. Sudan)

ORDER (ORAL)

BY HON'BLE SHRI A.V. Haridasan, V.C. (J)

The applicant, a member of the U.P. cadre
of Indian Administrative Service belonging to the
1965 batch, was while posted in his cadre in the

senior time scale in the grade of Director, was selected for appointment as Resident Director in the Indian Investment Centre, Abu Dhabi on deputation which post he joined on 7.8.81. At the time of his deputation, the officers of 1965 batch had not been empaneled for appointment as Joint Secretary at the Centre. In December, 1982, the I.A.S. officers of 1965 batch were empaneled for appointment to the post of Joint Secretary in the Government of India. The applicant thereafter represented for upgradation of the post of Resident Director in the Indian Investment Centre at Abu Dhabi to the rank of Joint Secretary and to accord to him the monitory benefits flowing therefrom. While his representation in that behalf was pending, he was reverted to his parent cadre on 22/23.7.84. The applicant followed up the matter making representations and ultimately he was informed by an order dated 13.1.87 i.e.

Annexure II that it had been decided to upgrade the post of Resident Director at Abu Dhabi as personal to the applicant and grant him the additional benefits of upgradation. However, he was not paid the monitory benefits flowing from the said decision. The applicant pursued the matter by making representations. Ultimately he was given the impugned order dated 7.9.88 by which he was informed that the Ministry of Economic Affairs did not find it possible to sanction the Senior Time Scale and consequential allowances to the applicant. The applicant is aggrieved by that order and he has filed this application under Section 19 of the A.T. Act to give direction to the respondents to


grant him the additional monetary benefits arising out of the upgradation of the post of Resident Director to the rank of Joint Secretary of the Government of India, with interest.

The respondents have filed a reply and an additional reply. They contend that the rules do not permit to give an I.A.S. officer, serving on deputation with Indian Investment Centre, either ~~for~~ proforma promotion under the next below Rule or to get higher allowances on the ground that a person junior to him has been promoted in his cadre or in the Government of India under the Central Staffing Scheme. They have referred to the decision of the Government of India, Ministry of Home Affairs, Department of Personnel & Administrative Reforms dated 11.3.83 addressed to the Chief Secretaries of all the States which makes it clear that an officer belonging to Indian Administrative Service, on deputation, would not be entitled to upgradation or promotion on the ground that an officer junior to him is being promoted making it clear that the option would be for such officer either to go back to his cadre and obtain the benefit of promotion or to continue on deputation with the prevailing status. The respondents have also relied on rule 5 (5) (b) according to which also an officer of Indian Administrative Service, on deputation, is not entitled to claim proforma promotion on the ground that junior has been promoted in the state cadre. Referring to the order dated 13.1.87 (Annexure II),

the respondents contend that this was not an order by the competent authority but only an information passed explaining the status of the representation of the applicant. The respondents contend that as the competent authority has not upgraded the post of Resident Director to that of Joint Secretary, either generally or specially in the case of the applicant, the applicant is not entitled to claim any benefit on the basis of the letter dated 13.1.87 which does not amount to an order upgrading the post of Resident Director, Abu Dhabi to the grade of Joint Secretary to the Government of India by the competent authority.

Having given our anxious consideration to the pleadings and the rules on the subject, we are of the considered view that the applicant is not entitled to the benefits claimed. The order dated 13.1.87 (Annexure II), on which reliance is based by the applicant and is trump-card of his case, does not help the applicant because this does not amount to an order passed by the competent authority upgrading the post. At the best, it can be termed only as decision taken ^{at some level} but any decision would have legal validity, capable of giving rise to legal consequences, only if ^{an order is passed on the basis} ~~the decision referred~~ ^{of the decision} ~~have been issued~~ by the competent authority.

In the light of what is stated above, we find no merit in this application and the same is, therefore, dismissed. No costs.


(V. RADHAKRISHNAN)
MEMBER (A)


(A.V. HARIDASAN)
VICE CHAIRMAN (J)