

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1272/88 198
T.A. No.

DATE OF DECISION 18.1.1990.

Shri R.P. Sehgal Applicant (s)

Shri B.B. Srivastava Advocate for the Applicant (s)

Versus
Union of India Respondent (s)

Shri P.P. Khurana Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. To be circulated to all Benches of the Tribunal ? No

JUDGEMENT

(delivered by Hon'ble Shri P.K. Kartha, V.C.)

The applicant, while working as Deputy Director (Inspection) in the Inspection Wing of the Directorate General of Supplies & Disposals, New Delhi, filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying that his seniority should be refixed in the light of the judgement of this Tribunal dated 27.2.1987 (Shri Om Dutt Sangar & Others Vs. Union of India & Others) and that he should be given all consequential reliefs.

2. Shri Om Dutt Sangar and 4 others, who had been working as Assistant Directors (Inspection) or in the

equivalent grade of Inspecting Officer in the Directorate General of Supplies & Disposals, had moved the Delhi High Court with a writ petition in 1978 which stood transferred to this Tribunal as TA-428/85. By the judgement dated 27.2.1987, the Tribunal directed that the petitioners should be deemed to have been regularly appointed as Assistant Directors/Inspecting Officers in Grade III of the I.I.S. w.e.f. the dates of their respective continuous officiation even on ad hoc basis in that grade. It was further directed that they should be so appointed and given all consequential benefits of seniority, pay, pension, etc., to which they would be entitled according to the rules and orders applicable to the members of that Service.

3. On 16.8.1988, the Tribunal passed an interim order to the effect that any promotion made to the grade of Director will be subject to the outcome of this application and that the promotees should be specifically informed about this.

4. On 31.8.1989, the applicant retired from Government service on attaining the age of superannuation. He had originally joined the DGS&D as an Examiner of Stores in 1953; thereafter had been promoted as Assistant Inspecting Officer in 1959. His name was included in the Select List prepared by the D.P.C. in March, 1971 for promotion to the post of Inspecting Officer. He was promoted as Inspecting Officer on regular basis w.e.f. 10.3.1971, vide order dated 23.7.1987 at Annexure A-4, p.78 of the paper-book). In that order, it is stated that he has been granted the deemed date of promotion to the Grade of Assistant Director of Inspection/Inspecting Officer (Engineering), Grade III of the Indian Inspection Service w.e.f. the

forenoon of 10.3.1971. The order further states that he was on deputation outside the cadre as Technical Officer (Grade III) in I.S.M., London w.e.f. February, 1969 to July, 1973 and that he would be entitled to arrears of pay, etc., w.e.f. the date he joined duty in DGS&D after his return from deputation. Certain other officers, namely, S/Shri C.D. Sangar, T.N. Ubadeja, Roshan Lal, D.N. Pandit and A.K. Sur, were also promoted as departmental promotees from the post of Assistant Inspecting Officer to that of Inspecting Officer during the period August, 1971 to December, 1974 on ad hoc basis. They had filed ~~ca~~ writ petition in the Delhi High Court, claiming the benefit of seniority from the dates of their commencement of officiation as Inspecting Officer on ad hoc basis. They were his juniors. After the Tribunal delivered its judgement dated 27.2.1987, mentioned above, the respondents complied with the judgement and appointed them on regular basis w.e.f. the dates of their ad hoc service ranging from August, 1971 to November, 1974. The applicant had been appointed on regular basis w.e.f. 10.3.1971. While the seniority list of the applicants in TA-428/86 was revised, the present applicant was left out, with the result that his erstwhile juniors became senior to him.

5. That apart, the respondents, vide their order dated 2nd July, 1988, gave to his erstwhile juniors, who were applicants in TA-428/86, promotion as Deputy Directors of Inspection ^{dates in} ~~on various~~ 1976 and 1984. The applicant was promoted as Deputy Director only on 27.12.1984. He has, therefore, claimed that being senior to the applicants in TA-428/85, his seniority, future promotion and other consequential benefits, should be protected.

6. During the oral arguments, the learned counsel for the applicant also drew our attention to order dated 20th June, 1989 issued by the respondents whereby two officers junior to the applicant - S/Shri T.N. Uboveja and Roshan Lal - were notionally appointed as Directors w.e.f. 7.4.1985 and 15.7.1985, respectively, and ~~they~~ they were allowed to draw arrears of pay and allowances for the period of their notional promotion.

7. In a similar case filed by Shri J.S. Passi in the Tribunal against the Union of India & Others (TA-1298/88) which was decided on 25.9.1989, the applicant, who was also working as Deputy Director in the Directorate of Supplies & Disposals, had prayed for similar reliefs. The Tribunal observed that the applicant was entitled to get the ^{same} benefits as the petitioners in Sangar's case (TA-428/85). The Tribunal, therefore, directed the respondents "to accord the applicant ~~the~~ seniority in the grade of Assistant Director from the date from which he was continuously officiating in that grade and on that basis, ~~we~~ consider his case for promotion to higher posts and, if found fit, to promote him to such posts accordingly. His pay on the date of his retirement should be worked out on this basis for the purpose of determining his pension and other retirement benefits. However, the applicant will not be entitled to any financial benefits arising out of his revised seniority in the grade of Assistant Director and consequential promotions to ~~the~~ higher posts for which he may be found fit till the date of his retirement as we are directing revision of seniority and promotion only on a notional basis in order to give actual benefit in the matter of pension."

8. After going through the records of the case carefully and hearing the learned counsel for both the parties, we are of the opinion that the case of the present applicant is similar to that of J.S. Passi whose application was disposed of by the Tribunal vide its judgement dated 28.9.1989. Following the ratio of the said judgement, the present application is disposed of with the following orders and directions:-

- (i) We hold that the applicant is entitled to seniority in the grade of Assistant Director from the date from which he was continuously officiating in that grade. The respondents are directed to accord him seniority on the said basis and consider his case for promotion to the post of Deputy Director and Director and, if found fit, to promote him to such posts accordingly from the due dates when his immediate junior was so promoted;
- (ii) The applicant will not be entitled to any arrears of pay and allowances as consequential benefit arising out of his revised seniority in the grade of Assistant Director and his consequential promotions to higher posts for which he may be found fit till the date of his retirement. However, the respondents are directed to work out his pay on the date of his retirement on the basis of the pay, allowances and increments, etc., he would have drawn on the promotional posts, for the purpose of determining his pension and other retirement benefits;

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(iii) the pension of the applicant shall be revised on the lines indicated above.

(iv) The respondents shall comply with the above directions within a period of three months from the date of communication of this order.

There will be no order as to costs.

D. K. Chakravorty
(D. K. Chakravorty)
Administrative Member
18/1/1970

P. K. Kartha
18/1/1970
(P. K. Kartha)
Vice-Chairman (Judl.)