

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO. 1507/88

DECIDED ON : 20.10.1993

Prithvi Singh

...

Petitioner

Vs.

Union of India through
Secretary, Ministry of
Finance & Anr.

...

Respondents

CORAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

Shri G. D. Bhandari, Counsel for Petitioner
Shri M. L. Verma, Counsel for Respondents

O R D E R (ORAL)
(Hon'ble Mr. Justice V. S. Malimath)

The petitioner, Shri Prithvi Singh, started his career as an LDC in ASC (Records) on 17.12.1962. On his own request he was transferred to Delhi Cantt. w.e.f. 6.2.1976. The counsel for the respondents brought to our notice that he further got transferred to GE(P), Meerut on mutual consent basis in February, 1985. The next promotional post for the LDC is UDC. The eligibility criteria is eight years of service in the cadre of LDCs. The petitioner felt that he had required eligibility of eight years' service and was, therefore, entitled to have his case considered for promotion to the cadre of UDCs. He made a request in that behalf to the concerned authorities. That request was examined and he was told by Annexure A-1 dated 13.7.1988 that his request could not be granted as he was adjusted on transfer on compassionate grounds and that, therefore, the previous service rendered by him before his transfer would not count for eligibility in the two new units to which the petitioner went on transfer on his own request. It is the said decision that is challenged in this case.

2. There are two questions which merit attention. It is no doubt true that when the petitioner sought transfer on mutual basis he lost the benefit of service rendered by him before his transfer. He was, therefore, required to be placed in the cadre of UDCs in the seniority list without giving him the benefit of past service rendered before his transfer on his own request. So far as the requirement of eight years of service for earning eligibility prescribed by the rules is concerned, the question^{is} as to whether the loss of seniority that is brought about when transfer is sought on voluntary basis would also have the effect of depriving him of the benefit of the past service in the matter of earning eligibility for promotion to the cadre of UDCs. This question is covered by a Full Bench judgment of the Tribunal reported in Full Bench Judgments of CAT (1986-89) p.209 between K. A. Balasubramaniam vs. Union of India. The Full Bench has held on examining the relevant orders in this behalf that though the official loses the benefit of past service rendered before transfer on voluntary basis for the purpose of seniority, the past service rendered by such an official in the previous unit or department will count for the purpose of determining the length of service required for earning eligibility for promotion. The clear effect of the judgment of the Full Bench is that^{though} an official transferred on voluntary basis to the new unit or department has to be placed at the bottom of the seniority list in that cadre, so far as the eligibility for promotion to the next cadre is concerned the service rendered by him before his transfer has to be taken into account in addition to the service which he may render in the unit or department to which he is transferred.

That being the clear pronouncement of the Full Bench, the view taken by the respondents in Annexure A-1 that the petitioner is not eligible for promotion to the cadre of UDCs, cannot be sustained. As to whether the petitioner's case falls for consideration for promotion would depend upon the number of vacancies and as to whether having regard to the number of eligible persons and the vacancies he comes within the zone of consideration, are all matters which have to be investigated and a decision taken thereon.

3. For the reasons stated above, this application is allowed and the impugned order Annexure A-1 is hereby quashed. The respondents are directed to consider the case of the petitioner for promotion to the cadre of UDCs as and when it becomes due in accordance with the rules in question treating the petitioner as having earned eligibility on completion of eight years of service taking into consideration the service rendered by him in the units or departments in which he was serving before he was transferred twice on his own requests. No costs.

Adige
(S. R. Adige)

Member (A)

Malimath
(V. S. Malimath)
Chairman

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