

14

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA 1536/1988

Date of decision: 12.03.1992.

Shri Chaitnaya Swarcop Chaturvedi

...Applicant

Vs.

Union of India & Others

...Respondents

For the Applicant

...Shri S.L. Lakhanpa
Counsel

For the Respondents

...Mrs. Raj Kumari
Chopra, Counsel

CORAM:

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

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

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The applicant, while working as Hindi Officer, Central Bureau of Investigation, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:-

- (1) To direct that the applicant be deemed to have been appointed as Assistant Director (OL) w.e.f. 1.02.85 by giving proforma promotion to the applicant, the date from which the initial constitution came into operation and the person junior to the applicant viz. Shri Jagdish

22

Raj Mahajan was appointed. The applicant, who was working against an ex-cadre post, was for no fault of his ~~xx~~ denied the above benefit.

(2) To assign proper seniority as Assistant Director (Official Language) in the impugned seniority list of the cadre circulated vide respondent OM No.7/2/87-OL(S) dated 27.8.1987 after having been given the promotion as AD(OL) to the applicant w.e.f. 1.2.1985.

(3) To award all consequential benefits as a sequel to the revision of seniority and to safeguard the service interest of the applicant for future promotion etc.

2. We have gone through the records of the case and have heard the learned counsel of both parties. The respondents have produced before us the relevant files concerning the applicant and we have perused them.

3. At the very outset, we may deal with and dispose the preliminary objections raised by the respondents. According to them, OA 4 of 1987 (R.R. Misra and Others Vs. Union of India) filed by 14 Assistant Directors is pending in the Tribunal. The applicant in the present application is one of the respondents in OA 4 of 1987. While this is correct, we are of the view that the preliminary objection raised by the respondents as to the maintainability of the present application is not tenable as the relief sought in both the applications are not identical. In OA 4 of 1987, the applicants have challenged the validity of the impugned notification dated 17.12.1985 whereby appointments were made to

Grade III (Assistant Director) of the C.S.O.L Service at its initial constitution under Rule 6(3) and 6(4). In the present application, the challenge is to the impugned seniority list dated 27.8.1987. In our opinion, the applicant in the instant case being a respondent in OA 4/87 would not constitute a bar to the maintainability of the present application.

4. On the merits, the contention of the applicant is that he must be deemed to have been appointed as Assistant Director with effect from 1.2.1985. This has been refuted by the respondents.

5. The respondents have given to the applicant proforma promotion on the post of Assistant Director for the period from 1.2.1985 to 30.7.1987.

6. The Central Secretariat Official Language (CSOL) Service was constituted on the recommendations of the Central Hindi Committee. Prior to this, there was no uniformity in the Recruitment Rules and service conditions in various Ministries/Departments/Officers in regard to the Hindi Officers. The rules relating to Group 'C' posts of the CSOL Service were made in 1981 and the rules relating to Group 'A' and 'B' posts were made in 1983.

7. Under the 1981 Rules, persons who were either holding the posts or holding lien in the posts included in the Service were considered as departmental candidates for being considered for induction as Senior and Junior Translators. The Selection Committee ^{was} constituted for the

purpose for induction in the Grade of Senior Translator (Grade IV) of the CSOL Service and his name figured at S.No.42 of the list circulated on 28.5.1983.

8. The post of Assistant Director is a Group 'B' post belonging to Grade III of the CSOL Service for which the Rules 1983^Q provided for the initial constitution. The applicant was eligible for being considered for induction as Assistant Director as he had completed 3 years of regular service as Senior Translator, required under the Rules. The selection committee headed by a member of the UPSC found him suitable for appointment to Grade III (Assistant Director) in the CSOL service at its initial constitution with effect from 1.2.1985 and his name figures at S.No.89 of the list circulated on 17.12.1985. The applicant is aggrieved because his name figured at S.No.42 in the list of Senior Translators circulated on 28.5.1983 but in the list of Assistant Directors circulated on 17.12.1985, his name has been pushed down to S.No.89.

9. The respondents have stated in their counter-affidavit that after his appointment to the higher post of Assistant Director at the initial constitution, his ranking in the lower post of Senior Translator is not relevant. There is force and merit in this contention as the appointments to Grades IV and III of CSOL Service are governed by two separate sets of rules, mentioned above.

Q

10. The applicant has made another grievance that he was not offered the appointment of Assistant Director prior to the notification of 17.12.1985 while his juniors were promoted. The respondents have stated that after the issue of seniority list of Senior Translators on 28.5.1983, the vacancies in the grade of Assistant Director were being filled up by promotion of the Senior Translators on the basis of seniority list on ad hoc basis. In November, 1983, the turn of the applicant for promotion to Assistant Director on ad hoc basis came but at that time he was not offered the ad hoc promotion because he was holding the post of Assistant Director (Ex-cadre post) where he would have got the benefit of deputation allowance and pay scale on the ex-cadre post. The applicant has denied this and has contended in his rejoinder affidavit that he was never sent on deputation to the office of the Development Commissioner (Small Scale Industries) as alleged by the respondents.

11. We have perused the original records produced by the respondents. According to OM No.5/4/86-OL(S) dated 7.5.1986, the applicant was appointed to the post of Assistant Director in the pay scale of Rs.650-1200 in the office of Small Scale Industries and was posted in the

α

24

said office on deputation as Assistant Editor. It appears from the seniority list of Senior Hindi Translators dated 23.5.1983 that the applicant had already been working in the said office as officiating Assistant Editor (Hindi) w.e.f. 30.1.1981. Thus it is borne out from the records maintained by the respondents that the appointment of the applicant to the post of Assistant Director included in CSOL Service and posting him to the office of the Small Scale Industries where he was on deputation on the post of Assistant Editor had been notified on 7.5.1986.

12. Strictly speaking, the respondents ought to have offered to the applicant ad hoc promotion to the post of Assistant Director when his turn for the same came in November, 1983 and the fact that he was already on deputation to the office of the Small Scale Industries should not have weighed with the respondents. The applicant has not stated as to how this circumstance has prejudicially affected him in seniority or otherwise. He has not stated that he has suffered monetarily on account of this. The fact that his juniors who had got monetary benefit on account of their ad hoc promotion to the post of Assistant Director cannot be faulted so long as he was getting the same monetary benefits in the office where he was working during the said period.

a

13. The respondents have given proforma promotion to the applicant with effect from 1.2.1985, i.e., the date from which Shri Mangey Lal, his next immediate junior was appointed on regular basis.

14. In the facts and circumstances, we are of the view that even if the respondents had offered the ad hoc promotion to the applicant in November, 1983 and he had accepted the offer, that would not have altered his seniority in Grade III (Assistant Director) of the CSOL Service which has been assigned to him in accordance with the 1983 Rules, the vires of which has not been challenged in the present application. We, therefore, see no merit in the present application and the same is dismissed.

There will be no order as to costs.

Deekubari 12/8/82
(D.K. CHAKRAVORTY)
MEMBER (A)

Deekubari 12/3/82
(P.K. KARTHA)
VICE CHAIRMAN (J)