

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. 1664/88

New Delhi this the 13th day of December, 1993.

THE HON'BLE MR J.P. SHARMA, MEMBER (J)
THE HON'BLE MR B.K. SINGH, MEMBER (A)

Shri Hari Shankar Sen,
S/o Shri Chunni Lal Sen,,
Technical Officer (Forestry)
Ministry of Environment & Forests,
Deptt of Environment, Forests & Wild Life,
Paryavaran Bhavan, CGO Complex,
Lodi Road, New Delhi-110 003. ...Applicant

(By Advocate Shri Anis Subrabardhy)

Versus

UNION OF INDIA, THROUGH

1. The Secretary,
Ministry of Environment & Forests,
Paryavaran Bhavan, CGO Complex,
Lodi Road, New Delhi.
2. Ministry of Agriculture,
Deptt of Agriculture & Coperation,
through its Secretary,
Krishi Bhavan, New Delhi-1.
3. The Chairman,
U.P.S.C.,
Sahajhan Road,
New Delhi-110011.
4. The Secretary,
Department of Personnel & Training,
North Block, New Delhi. 110011.
5. Secretary,
Ministry of Finance,
Department of Expenditure,
North Block, New Delhi-110011.
6. Member Secretary,
National Westland Development Board,
Paryavaran Bhavan, 7th Floor,
CGO Complex, Lodi Road,
New Delhi-110 003. ...Respondents

(By Advocate Shri M.L. Verma,)

ORDER (ORAL)

1. The applicant was appointed Technical Assistant (Forestry) in the Department of Agriculture and Cooperation in 1969. He was confirmed on that post on

19th October, 1976. He was promoted as Research Investigator (Forestry) on 5th November, 1971 on ad hoc basis and after reversion in April 1973 he was promoted on regular basis as Research Investigator (Forestry) w.e.f. 28.2.1977. The next promotion post is of Technical Officer (Forestry) which is governed by the Recruitment Rules which came into force in 1978 whereby 50% of the post are to be filled in the grade of Technical Officer by promotion and 50% by direct recruitment. 2 posts fell vacant in 1979 but the applicant at that time did not put in 3 years regular service and he was not eligible for promotional post. However, 2 posts were earmarked for deputation quota and the applicant was selected purely on deputation basis to fill one of the posts. He completed deputation period in 1982 which was extended by 1 year more on his request and after 4 years he was reverted on 17.08.83 to his substantive post of Research Investigator (Forestry) but he was posted as Research Investigator (S&D). This Department was separated from the Department of Agriculture and Cooperation in January, 1985. 12 posts of Research Investigator (S&D) from the combined Cadre of the department of Agriculture and Cooperation were transferred to the newly created department. The applicant was, thereafter, promoted on adhoc basis w.e.f. 18th July, 1985 and subsequently, he was regularised w.e.f. 3.12.1986. In the present application only relief claimed by the applicant is that he may be treated as regular Technical Officer (Forestry) w.e.f. 17.08.1979, along with pay, seniority, regularisation and perks. A notice was issued to the respondents who contested the application taking plea of limitation and also that the applicant has no cause of action.

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2. We have heard the learned counsel for the applicant at length and gone through the recruitment rules of the Department of Agriculture Technical Officer (Forestry) Recruitment Rules 1978. It is not disputed that 3 years regular service is required for promotion to the Technical Officer (Forestry) rendered after appointment thereto on a regular basis, possessing a degree with statistics or economics or Mathematics or Operation Research or Agriculture (with Statistics) as one of the subjects. This also provides filling up the post of deputation by calling in Officers, working in the Grade of Rs.550-900 or Rs.425-700 with 3 years, 8 years regular service in the post respectively. The applicant obviously was not eligible for promotion from the feeder post. The respondents, therefore, have filled the post on the alternative mode on deputation basis as incumbent who works on deputation post does not become a member of that Cadre. He maintains his lien on the parent department on the cadre and atleast on the cadre from which he has come on deputation. The case of the learned counsel is that since he has worked for 4 years on deputation and he belonged to the same department then, when he has completed 3 years in 1981, he should have been regularised as Technical Assistant and, thereafter, he should have been given the seniority w.e.f. the original date i.e from August 1979. This argument does not stand the test of the legal propositions which have been enunciated in a catena of decisions. Firstly, a deputationist does not become a member of the service to which he has come on deputation. Secondly, he knew well that he has to work for all period and thereafter he has to come to his original post in the parent department

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or on the parent cadre. It is not only discriminatory but will be against the principles of natural justice to give such a person rank of ^aIpromotee where a definite quota is fixed on entering into service from more than one service. Thirdly, the applicant if there is substance in his contention, he should have raised the issue at the time when the deputation was to come to an end in August 1982. Instead, he himself prayed for extension of deputation period by 1 year more. He, therefore, cannot resile from the stand he has taken in 1982.

3. After the seperation of the Agriculture Wing and the Forest Wing, the applicant has been given one of the posts which has been transferred to the Forestry Wing. He has also been promoted firstly, on deputation basis then on regular basis in December, 1986. The applicant has not claimed any benefit of the service which he has rendered on ad hoc basis from January, 1985 to December, 1986. The relief which is not claimed cannot be granted as the matter has been settled and seniority matter decided on the basis of regularisation on the post of Technical Assistant w.e.f. December, 1986. We are now in 1993 i.e. coming to an end. He assailed the matter in 1988, only with regard to giving seniority from 1979.

4. The learned counsel for the applicant has laid stress on certain other points but those are not relevant for the decision of the impugned order in the case. In

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view of the facts and circumstances of the case, the application is dismissed as devoid of merit, leaving the parties to bear their own costs.

B.K. Singh

(B.K. Singh)

Member (A)

J.P. Sharma

(J.P. Sharma)

Member(J)

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