

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

DA NO.1693/88

DATE OF DECISION: 28.9.1990.

SHRI T.T. LA

..... APPLICANT

VERSUS

UNION OF INDIA & ANOTHER

..... RESPONDENTS

ADVOCATES:

SHRI K.L. BHATIA

ADVOCATE FOR THE APPLICANT

SHRI M.L. VERMA

ADVOCATE FOR THE RESPONDENTS.

CORAM:

THE HON'BLE MR. G. SREEDHARAN NAIR, VICE CHAIRMAN (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

J U D G E M E N T

(DELIVERED BY HON'BLE MR. I.K. RASGOTRA, MEMBER (A))

This application is filed by Shri T.T. La, Joint Chief Controller of Imports & Exports who is working on adhoc basis against his non-regularisation although he has put in 9 years service in the feeder post.

2. The indisputed facts of the case are that Shri T.T. La was appointed as Controller of Imports & Exports w.e.f. 24.11.1962 and was confirmed w.e.f. 10.9.1967. He was promoted as Deputy Chief Controller of Imports & Exports w.e.f. 1.2.1970 and was substantively appointed to the post w.e.f. 19.11.1979 vide notification No.58-1/1983 dated 7th June, 1983. He was appointed as Joint Chief Controller of Imports and Exports (JCCI&E) on adhoc basis w.e.f. 28.11.1979 vide office order No.1/33/78-Admn.(G) dated November 19, 1979 and has

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been continuously working on that post. The last order in this connection dated 6.7.1984 (p. 18 of the paper book) conveyed the approval of the competent authority to the continued officiation of six Deputy Chief Controllers of Imports & Exports (Grade II of Central Trade Service) as JCCI &E (Grade I of the Central Trade Service) for specific periods. The applicant's appointment is approved upto 30.6.1984. The paragraph 2 of the order reads: " The appointment of all the above officers have been approved on the clear understanding that they will have no right to claim seniority in the grade of JCCI &E (Grade I of the Central Trade Service) in view of the above adhoc arrangements."

3. 40% of the vacancies in Grade I to the post of JCCI &E Grade-I are filled up by transfer or deputation from I.A.S. and Central Service Group A and the remaining 60% are filled up by selection on merits from the Members of Grade II who have completed at least 5 years service in the Grade rendered after appointment thereto on a regular basis on the recommendation of a Departmental Promotion Committee (DPC). In terms of the Recruitment Rules notified by the Ministry of Commerce on 3rd August, 1977 constituted the Central Trade Service

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in 1977. The applicant was formally inducted in the CTS Grade II as Dy. Chief Controller of Imports & Exports w.e.f. 19.11.1979 and was placed at serial No.2 of the seniority list. The applicant's contention is that on the date of induction into the CTS, he had already completed 10 years service as Dy. Chief Controller of Imports & Exports and, therefore, he was eligible for being considered for promotion to the post of JCCI&E in Grade-I on regular basis on account of seniority, length of service and merit. A DPC was held on 11.1.1983 in UPSC for selection of Grade-II officers for promotion to Grade I of the CTS when the applicant also came in for consideration along with other candidates. As the applicant apprehended that his name has not been recommended by the DPC for regular appointment to the post of JCCI&E and consequently he might be faced with reversion, he filed a writ petition in the High Court of Gujarat on 14.2.1983 seeking a writ of mandamus or any other appropriate order or direction directing the respondents not to revert the applicant consequent on his non-empanelment by the DPC. A single Judge Bench of the Gujrat High Court directed the respondents to reconsider the applicant by a fresh DPC. The appeal against the said order was dismissed by the Division Bench of the High Court and so was the SLP filed in the Supreme Court. Consequent to the above developments

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the applicant had two grievances against the respondents:-

- a) that no fresh DPC was constituted and consequently no action taken to regularise his services as JCCI&E by the respondents while his immediate juniors were already working as JCCI&E on regular basis w.e.f. 1.2.1984;
- b) that by not regularising him as JCCI&E he is being denied promotion to the post of Director in the scale of Rs.4500-5700/- which is to be filled up from amongst the JCCI &E.

4. We heard the learned counsel, Shri K.L. Bhatia for the applicant and Shri M.L. Verma for the respondents on 25.9.1990.

The learned counsel for the respondents submitted that the applicant has already been regularised as JCCI&E w.e.f. August, 1984 when his junior was promoted. This removes the major grievance which the applicant had. The next issue which was urged before us by the learned counsel of the applicant, Shri K.L. Bhatia, was that the applicant should be regularised as JCCI&E from 28.11.1979 and

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not from August, 1984. The learned counsel relied on catena of judicial pronouncements delivered by the Hon'ble Supreme Court to the effect that whenever un-interrupted adhoc service is followed by regularisation, the seniority in service should be counted from the date of initial promotion on adhoc basis.

6. The learned counsel for the respondents, however, maintained that the initial service on adhoc basis was only as a stop-gap arrangement and it was only in August, 1984 that the promotion was made in accordance with the rules. As such, the benefit of the adhoc service rendered as a stop-gap arrangement cannot be conferred on the applicant.

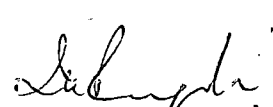
7. We have considered the pleas of the learned counsel of both the parties and the pleadings on record. In terms of the Recruitment Rules promulgated on 3rd August, 1977, the appointment to Grade I of the CTS has to be made on the basis of a Departmental Promotion Committee which will be presided over by the Chairman or a Member of the U.P.S.C. The adhoc promotion was not made in accordance with the rules as

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the same did not have concurrence of the UPSC. It was only in 1984 that a duly constituted DPC under the chairmanship of a Member of the UPSC found the applicant fit for promotion. As earlier observed, the DPC held in 1983, had not found the applicant fit for promotion as JCCI & E (Grade I of the CTS). The appointment as JCCI & E on adhoc basis made as a stop gap measure cannot be reckoned as regular service. The claim of the applicant in this regard, therefore, has no merit. The next claim is for promotion to the rank of Director. Since the applicant is now in the feeder grade for the post of Director having been regularised from the date his junior was regularised by the duly constituted DPC, we have no doubt that he would be considered for further promotion, if eligible in accordance with the rules. No direction in this regard can be considered for issued to the respondents.

8) In the facts of the case as obtaining now, we do not see any merit in interfering with the matter and the claim for any further direction to the respondents is accordingly rejected. The OA is disposed of with no order as to costs.


(I.K. RASGOTRA)
MEMBER (A)

28/9/90


(G. SREEDHARAN NAIR)
VICE CHAIRMAN (J)