

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

6

OA No. 269/88

Date of decision: 09.06.99

Shri H.C. Mendiratta

...Petitioner

Versus

Union of India & Others

...Respondents

Coram: The Hon'ble Mr. I.K. Rasgotra Member (A)
The Hon'ble Mr. J.P. Sharma, Member (J)

For the petitioner

Shri Ashish Kalia, proxy Counsel
for Shri R.L. Sethi, Counsel.

For the respondents

Shri P.P. Khurana, Counsel.

Judgement (Oral)
(Hon'ble Mr. I.K. Rasgotra)

The case of the petitioner is that he was appointed as Stenographer Grade 'C' in the Ministry of Parliamentary Affairs which has its own rules for regulating the conditions of service. The petitioner was promoted as a Stenographer Grade 'A' w.e.f. 7.2. 1986 and Section Officer w.e.f. 25.11.1985. For promotion to the post of Under Secretary the relevant recruitment rules provide that the candidate should have rendered not less than 8 years approved service on the post of Section Officer. A further provision is made that in the case of Stenographer Grade 'A' the service to be reckoned for this purpose would be 8 years' approved service on the post of Stenographer Grade 'A' and he should have an experience of two years on the post of Section Officer. The proviso to the rule further provides that Stenographer Grade 'A' "who has not worked as Section Officer for a period of two years shall also be considered for promotion to the grade of Under Secretary if he is otherwise eligible for such promotion and the Central Government in the department of Parliamentary Affairs is satisfied for the reasons to be recorded in writing that such a person was not appointed to the Section Officers' grade in the exigencies of service." The claim of the

21



petitioner is that he fulfils the conditions prescribed for promotion to the post of Under Secretary but he was not given his due. In this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985 he has prayed that respondent No.1 be directed to promote the petitioner to the post of Under Secretary with immediate effect and that he should be given the benefit of promotion from the date respondent No.2 Shri J.B. Gupta and others were promoted with all consequential benefits. The petitioners has impugned the following orders:-

- i) Notification dated 15.9.1987 promoting S/Shri I.D. Sharma, Amar Chand and B.C. Ray as Under Secretary on adhoc basis.
- ii) Notification dated 13.2.1987, promoting Shri H.R. Chawla as Under Secretary in officiating capacity.
- iii) Notification dated 10.9.1986 promoting Shri J.B.Gupta (respondent No.2) as Under Secretary in officiating capacity.

2. Thus, the cause of action in this case arose on 10.9.1986 when the petitioner was first superseded by Shri J.B. Gupta, a permanent Section Officer, who was promoted as Under Secretary in officiating capacity w.e.f. 1.9.1986.

3. Shri Ashish Kalia, learned counsel for the petitioner illustrated by drawing our attention to Annexure A-4 that the petitioner had rendered total reckonable service of 12 years, 7 months and 27 days and was accordingly eligible for consideration for promotion to the post of Under Secretary.

(S)

4. The stand of the respondents is that first the petition is barred by limitation. Secondly the petitioner had not in fact rendered requisite service as prescribed under the Rules. The approved service calculated in his case amounts to 6 years, two months and 12 days as on 31.3..1987. This has been done in consultation with the Department of Personnel and Training. The petitioner also had not completed two years' service as Section Officer on 25.11.1985. He will complete two years service as Section Officer only on 24.11.1987. It has been further pointed out by Shri P.P. Khurana that the contention of the petitioner that respondents No.4-6 were given the benefit of relaxation of rules for consideration for promotion to the post of Under Secretary while similar treatment was denied to him is not borne out by the record. In fact, the petitioner was also given the same relaxation, as was given to respondents No.4-6. He was accordingly considered by the Union Public Service Commission first at the stage of relaxation of rules for making him eligible for consideration for appointment as Under Secretary and hereafter at the stage of consideration by the Departmental Promotion Committee (DPC) in accordance with the recruitment rules. These contentions have not been specifically rebutted by the petitioner in the rejoinder filed by him. All that has been said in paragraph 6.8 and 9. of the rejoinder in reply is that "Denied and submissions made in the corresponding paras are reasserted." (Para 6.8) "Denied. Applicant is eligible as per submissions made in the corresponding paras." (Para 9.3).

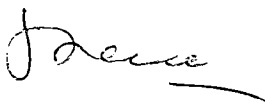
5. The learned counsel for the petitioner Shri Ashish Kalia made a submission that the record of the DPC proceedings should be summoned by the Court for its perusal in the interest of justice.

[Signature]

9

6. We have considered the above submissions and the record of the case before us. In the facts and circumstances of the case, we do not feel it necessary to go through the proceedings of the DPC. There are specific averments in the counter-affidavit filed by the respondents which have not been specifically denied by the petitioner. We see no good reason to disbelieve them and to call upon the respondents to produce the proceedings of PC.

7. In the above facts and circumstances of the case, the O.A. is dismissed. No costs.



(J.P. SHARMA)
Member (J)

San.



(I.K. RASGOTRA)
Member (A)