

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 505/88
T.A. No.

199

DATE OF DECISION 12.8.1993

Shri Prem Singh

Petitioner

Shri D. N. Puri, appearing for the petitioner of Shri E. X. Joseph, Counsel for the petitioner Versus
Union of India & Ors

Respondent

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. I. K. Rasgotra, Member (A)

The Hon'ble Mr. B. S. Hegde, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT (ORAL)

The learned counsel submits that the petitioner joined the office of the Respondents on 24.6.1976. He was promoted as LDC on ad hoc basis on 24.10.1981. The principal grievance by the petitioner in O.A. is that while some of his juniors have been regularised as LDCs, he was been by-passed. While he is continuing to work as LDC his juniors Shri Shyam Singh and some others like Shri Jagpal Singh etc. have been regularised as LDCs. The respondents in their counter affidavit have submitted that upto the year 1982 10% vacancies were reserved for the Group 'D' employees and were filled solely through departmental examination. Thereafter the rules were amended and 5% quota was reserved for

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Group 'D' staff to be filled on seniority-cum-Fitness basis subject to their fulfilling requisite educational qualification and age limit as prescribed. The remaining 5% posts were filled through qualifying departmental examination. It has been further averred by the respondents that Shri Shyam Singh though immediate junior to the applicant was regularised as LDC on the basis of the recommendations of the DPC held on 31.12.1995. The said DPC had found the petitioner as 'Not Fit'. Similarly Shri Jagpal Singh stated to be junior to the petitioner was promoted as he was senior to the petitioner and was found fit for such regularisation. Other persons namely S/Shri Mehar Chand, Ranbir Singh, Manphool Singh and Trilok Chand who were appointed as ad hoc LDCs were not only senior to the applicant but had also qualified in the departmental examination. Accordingly, they were appointed against 5% vacancies reserved for the candidates who had qualified in the departmental examination. The respondents further state that the petitioner's turn for consideration for appointment as regular LDC against 5% quota or seniority-cum-fitness came for the first in the year 1985 but he was found 'Not Yet fit' by the DPC. He was again considered by DPC in the years 1986, 1987 and 1988 but was 'not found fit'. He could not therefore be regularised as LDC. Vide Order No. 237/86 dated 25.9.1986, the petitioner was reverted to his substantive post of Sepoy. He filed O.A. No. 846/86 in the Principal Bench of the Tribunal which was disposed of by judgment dated 12.5.1987. Since the Tribunal had quashed and set aside the order of reversion the petitioner was allowed to continue as ad hoc LDC. The specific averments made by the respondents have not been refuted specifically in the rejoinder filed by the petitioner. The 1st counsel for the respondent pointed out that the petitioner was considered for regularisation by the DPC and has in fact

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been regularised in the year 1990 vide Establishment Order No. 37/90 dated 1.2.1990.

We have considered the submission made by the learned counsel for the petitioner and perused the record of the case. The petitioner was not found fit for regularisation by DPC against 5% quota for regular promotion on the basis of seniority-cum-fitness in the year 1985, 1986, 1987 and 1988. The DPC has since assessed him fit for promotion in the year 1990 and he has been promoted as regular LDC. In the circumstances grievance of the petitioner does not any longer subsist. The learned counsel for the petitioner further contended that on his promotion on regular basis, the petitioner should have been allowed the seniority from the date he was first promoted ad hoc basis as he continued as LDC uninterruptedly. The respondents on the other hand have pointed out that a large number of group 'D' employees viz. 23 in the department was promoted on ad hoc basis as duly selected candidates from the Staff Selection Commission were not available. They were appointed on ad hoc basis against Direct Recruitment quota. It is apparent from the ad hoc promotion order that the petitioner was to be replaced as soon as the Direct Recruitment candidates recommended by the Staff Selection Commission become available. Ad hoc promotions against direct recruitment quota are tantamount to stop gap promotions/arrangement. The petitioner could be considered for regular promotion only against the promotion quota. He has no right for regular promotion against direct recruitment quota. He has been promoted against promotion quota in 1990. He will be entitled to seniority only from that date. He cannot claim seniority by reckoning the period he worked in a stop gap arrangement.

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In the above facts and circumstances of the case, we do not find any merit in the O.A. The same is accordingly dismissed. No. cost.

B.S. Hegde
(B.S. HEGDE)
Member (J)

I.K. Rasgotra
(I.K. RASGOTRA)
Member (A)

Mittal