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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.589/88

Date of decision: 25.08.1993.

Shri Nokhey Lal

...Petitioner

Versus

Union of India through the
Secretary, Planning Commission
New Delhi & Anr.

...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioner

Shri B.R. Sharma, Counsel.

For the respondents

Shri P.P. Khurana, Counsel.

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

We have heard the learned counsel for both the parties. The case of the petitioner in brief is that he was working in the Committee on Plan Projects (COPP) as Economic Investigator. The COPP was later merged with the Secretariat of the Planning Commission and the petitioner was appointed as Research Officer on ad hoc basis. Later he applied for the post of Research Officer through the Union Public Service Commission. He was selected in the open competitive examination and appointed as Research Officer. He was promoted as Senior Research Officer on 1.2.1980. He has prayed for the following reliefs:-

"(a) The applicant, like other similarly situated persons, may be inducted into IES and his name included in grade IV, seniority list at the appropriate place, in the same manner as that of the similarly situated persons, mentioned herein above.

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(b) The applicant's seniority may be counted from 01.2.67, when he was appointed as Research Officer, with due regard to his continuous service from 1961 to 1967 rendered as Economic Investigator in a feeder post under Govt of India, although as Adhoc appointee, as has been done in the case of other Adhoc appointees, while preparing 1986 seniority list.


(c) The applicant may also be given notional promotion after fixing his place in the seniority list."

In brief the case is that if the petitioner had continued as Economic Investigator he would have found a place in the Indian Economic Service (IES for short) Grade-IV. He has sought these reliefs on the basis of hostile discrimination, as three persons who are similarly situated viz. Shri S.S. Ahluwalia, Shri S. Fasihuddin and Smt. S. Vij were inducted in the IES Grade-IV while he was left out. The respondents in their counter-affidavit have pointed out that there is no discrimination against the petitioner. Shri S.S. Ahluwalia was inducted in the service by mistake. He was given a show cause notice and his case is now under process to denotify him from the service in consultation with the Ministry of Law. As far as Shri Fasihuddin and Smt. S. Vij are concerned, they were inducted in Grade-IV of the I.E.S. from the date of their continuous officiation in accordance with the judgement of the Hon'ble Supreme Court in Narender Chadha's case, operative part of which has been extracted at pages 2-3 of the counter-affidavit. These persons were in position on ad hoc basis on the crucial date and they were accordingly inducted as promotees in the I.E.S. Grade-IV. In that view of the matter the plea of hostile discrimination against the petitioner is not


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sustainable. The respondents have further pointed out that the petitioner was holding the ex-cadre post. He got regularly selected through the UPSC and thereafter he has also been promoted to the higher post of Senior Research Officer. He was not at par with those who were working on ad hoc basis either as Economic Investigator or as Research Officer as promotees. The judgement of the Supreme Court in Narender Chadha's case does not help the petitioner nor is he entitled to be considered for encadrement in the IES as he has chosen to get himself regularly appointed in the ex cadre post of Research Officer. The learned counsel for the petitioner referred to his rejoinder and submitted that some other cases have been specifically listed by him therein which substantiate hostile discrimination against the petitioner. The three cases, however, are not part of the original pleadings in the O.A. and they cannot be brought in at the rejoinder stage.

We have carefully considered the submissions made by the learned counsel for both the parties and are of the opinion that the petitioner's case has no merit and the same is accordingly dismissed. No costs.


(B.S. HEGDE)
MEMBER(J)

San.


(I.K. RASGOTRA)
MEMBER(A)