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✓ IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 173 198 6
T.A. No.

DATE OF DECISION 30.5.1986

Shri R.C. Gupta and another **Petitioners**

Shri K.L. Asthana **Advocate for the Petitioner(s)**

Versus

Ministry of Defence & others **Respondents**

Shri K.C. Mittal **Advocate for the Respondent(s)**

Shri T. Panigrahi, Dy. Director (Personnel I) DGI.

CORAM :

The Hon'ble Mr. S.P. MUKERJI, ADMINISTRATIVE MEMBER

The Hon'ble Mr. H.P. BAGCHI, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No.*

JUDGEMENT

The petitioners have come up under Section 19 of the Administrative Tribunals Act, 1985 praying that they should be allowed to revert to their parent organisation of the Defence Research & ...2

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Development Organisation (DRDO) where they allegedly hold permanent lien as Junior Scientific Assistant (JSA) and further, that in that organisation they should be given confirmation, promotion and seniority in the next higher grades of Senior Scientific Assistants (SSA) and Senior Scientific Officer (SSO).

2. The brief facts of the case are as follows :

The petitioners joined the DRDO of the Ministry of Defence as JSA I & JSA-II in 1967 and were made permanent JSA I & JSA-II between 1970 and 1971.

They were promoted as officiating SSA Between 1971 and 1973. In the DRDO the petitioners were working in a Cell known as Technical Committee (Engineers Stores) which on 8.1.76 was transferred from DRDO to the organisation of Directorate General of Inspection (DGI).

On 13.1.1979 the DRDO cadre was separated from the DGI's cadre and the applicants automatically came under the DGI's organisation. The applicants' contention is that since they were confirmed in the DRDO they should be reverted back to that organisation with all consequential promotions confirmation etc. The respondents' case is that since the establishment sanctioned for the Technical Committee (Engineers Stores) of DRDO was transferred to the Directorate General of Inspection Organisation along with the officers and the staff with effect from 1.2.76 and the applicants did not object to their transfer till 1982 when they sought reversion to the DRDO they have no case. The applicants can look forward to promotions in similar grades in the DGI's organisation. With the separation of cadres between DGI and DRDO on 13.1.79 and the promulgation of separate Recruitment Rules and promotion quota etc. the question of reversion of the petitioners to DRDO does not arise.

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3. We have heard the arguments of the learned counsel for both the parties and gone through the documents closely. Even though the petitioners were recruited as Junior Scientific Assistants I & II D.R.D.O. in 1967, at that time the DRDO, the Directorate General of Inspection (DGI) and the Directorate of Technical Development and Production (Air) were parts of the same organisation with common cadre and inter-transferability for gazetted as well as non-gazetted levels. It is ~~and~~ admitted that the Technical Committee (Engineers Stores) of the DRDO where the petitioners were working as officiating Senior Scientific Assistants were transferred to the Directorate General of Inspection along with the posts on 1.2.76. It was mentioned that the "establishment sanctioned for this work vide Ministry of Defence letter No Engg/RD-51/0303/2882/D(R&D) dated 29.3.1975 will function under the DPIE (EE)" and that the "other necessary administrative support will be provided by DGI Organisation." It also mentioned that "the expenditure involved is debitable to the Main Head DGI Organisation in the Defence Services Estimates." A copy of the order dated 8th January, 1976 about this has been appended (at page 24) with the petition.

4. The DGI was separated from the DRDO on 13.1.1979 with separate cadres both at gazetted as well as non-gazetted levels. It was only with respect to the gazetted level that an option was given to the Scientific officers of the DGI to opt for the DRDO and they were taken only after proper screening. This option was never extended to the non-gazetted cadres. It has been stated by the respondents that the applicant started representing about the reversion to the DRDO only from 1982 onwards. They served a legal notice in July, 1984 but took no action

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thereafter till February, 1986. From the 13th January, 1979 the Senior Scientific Assistants who were before 13.1.1979 eligible for promotion as Junior Scientific Officer in all the three organisations became eligible to the post of Junior Scientific Officers in the respective organisations to which they were allotted on 13.1.1979. Thus the petitioners who were allotted to the DGI's organisation will be eligible for promotion as Junior Scientific Officers of that organisation just as SSAs of DRDO will be considered for promotion as JSO in DRDO. The petitioner cannot, after the trifurcation of 1979, claim reversion to DRDO merely because according to their light the promotion prospects are better in the DRDO than in the DGI. The petitioners had been shown in the seniority rolls of Senior Scientific Assistants of the DGI and the question of their not being considered for promotion within the DGI does not arise. As regards the case of Shri A.N. Khardenavis who was promoted as Junior Scientific Officer in the DRDO even though he along with the petitioners had been transferred to the DGI, ^{as convincingly explained and he} it has been stated by the respondents that he was recommended for promotion by the DPC in the meeting held on the 9th December, 1978, i.e. prior to 13th January, 1979 when the trifurcation took place and cadres were separated. Thus the petitioners cannot have any grievance about this promotion.

5. In the circumstances of the case, we find no merit in the petition and reject the same. There will be no order as to costs.

(H.P. Bagchi)
JUDICIAL MEMBER

S.P. Mukerji/30/5/86
(S.P. Mukerji)
ADMINISTRATIVE MEMBER