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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A.No. 20/86

Date of Decision: 10-04-92

K.L.Sarma

.. Applicant(s)

Shri R.Venkitaramani

.. Counsel for the applicants

Vs.
Union of India through
Secretary, Ministry of
External Affairs.

.. Respondents

Shri N.S.Mehta

.. Counsel for respondent(s)

CORAM

Hon'ble Mr. S.P.Mukerji - Vice Chairman

Hon'ble Mr. T.S.Oberoi - Member(Judicial)

1. Whether Reporters of local papers may be allowed to see the Judgment? Y_u
2. To be referred to the Reporter or not? Y_u

J U D G M E N T

(Delivered by Hon'ble Mr.S.P.Mukerji, Vice Chairman)

In this application dated 2.1.1986 filed under Section 19 of the Administrative Tribunals Act, the applicant who had been working as Legal Adviser Grade I in the Ministry of External Affairs has challenged the impugned order dated 12.2.85 (Annexure-XII) by which he had been appointed as Legal Adviser Grade I in the scale of Rs.1500-2000 whereas respondents 2, 3 & 4 were appointed as Director in the scale of Rs.2000-2250. He has also prayed that Respondent No.1 be directed to consider him for appointment as Director and determine his seniority vis-a-vis Respondents 2 to 4 in the post of Director.

2. The main ground taken by the applicant in his claim is that his length of service as Law Officer Grade I starting from 24.2.65 is more than the length of service of Respondents 2,3 and 4 starting from 13.6.66, 3.3.66 and 13.6.66 respectively. On that basis he has claimed that his promotion to the next higher grade of Assistant Legal Advisor should not have been ^{on} 19th October, 1972 but earlier than the ⁱⁿ dates of promotion of Respondents 2, 3 and 4. When the restructuring of the posts took place the applicant had not been promoted even as Deputy Director whereas Respondents 2,3 and 4 because of their earlier promotion as Assistant Law Officer had been promoted as Deputy Director between 5.1.77 and October, 1983. Consequentially when respondents 2,3 and 4 while holding the post of Deputy Director immediately before 1.10.84 were promoted as Director after restructuring the applicant who was holding the post of Assistant Legal Advisor was appointed as Legal Officer Grade I, the applicant ~~was~~ ^{is} felt aggrieved.

3. In the counter affidavit the Union of India has raised a preliminary objection stating that the application is hopelessly time barred as the reliefs sought by the applicant are based on the appointments of Respondents 2 to 4 as Law Officer Grade I in 1966 and inter-se seniority of the applicant vis-a-vis Respondents 2 to 4, ⁱⁿ ~~of~~ the year 1968. The applicant had been shown as junior to Respondents 2 to 4 in 1968 and the applicant's claim is thus unwarranted. Respondents 2 to 4 were already holding the post of Law Officer as direct recruits on a regular basis from 1966 whereas the applicant was appointed as Law Officer

Grade I on regular basis on 8.2.68. Adhoc service of the applicant prior to 8.2.68 cannot be taken into account for seniority. The applicant did not become eligible for promotion as Assistant Legal Adviser on 5.11.70 claimed by him as his adhoc service could not be counted as regular service for promotion. The Promotion as Assistant Legal Adviser was to be by selection in consultation with the UPSC and seniority alone would not be the ^{only} criterion. The Promotion of Respondent No.2 with effect from 29.1.71 as Assistant Legal Advisor was by the UPSC when the applicant was rejected. The applicant was appointed as Assistant Legal Adviser on adhoc basis on 19.10.72 and then ^{in 1975} he went away to Bahrain on foreign service and remained there till August, 1980. He was promoted as Assistant Legal Adviser on adhoc basis on 19.10.72 along with Respondents 3 & 4.

4. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The applicant cannot rake up his promotion as Law Officer Grade I on an adhoc basis on 24.2.65 and on a regular basis on 8.2.68 challenging the promotion to the Respondents 2, 3 and 4 in 1966. Similarly he cannot challenge the inter-se seniority and his promotion and promotion of Respondents 2, 3 & 4 as Assistant Legal Adviser during 1971 and 1972. He went to Bahrain between 1975 and 1980 but outside this period he had not approached the appropriate legal forum challenging the inter-se seniority or promotion of Respondents 2, 3 & 4. ~~The~~ Respondent 2 who had been promoted as Assistant Legal Advisor on 29.1.71

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was promoted as Deputy Director on 5.1.77 and respondents 3 and 4 were promoted as Deputy Director in January, 1980 and October, 1983. The applicant did not challenge these promotions also in any Court of Law but accepted his appointment as Assistant Legal Advisor on his return from Behrain in 1980. It is established law that stale cases of seniority and promotion cannot be raked up at a later stage. Since Respondents 2, 3 and 4 were working as Deputy Director immediately before 1.10.84 while the applicant was working in the lower grade of Assistant Legal Adviser, we see nothing wrong in Respondents 2, 3 and 4 being inducted as Directors in the higher scale and the applicant being inducted as Legal Adviser in the immediately lower scale.

5. Seeing no merit in the application, we dismiss the same without any order as to costs.

T.S. Oberoi 10.4.92
(T.S. OBEROI)
MEMBER (JUDICIAL)

S.P. Mukerji 10.4.92
(S.P. MUKERJI)
VICE CHAIRMAN

10-04-92

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