

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

(9)

O.A. No. 461/86
T.A. No.

199

DATE OF DECISION 17.1.1992

Shri Narendra Dev Asija	Petitioner Applicant
Shri Sant Lal	Advocate for the Petitioner(s) Applicant
Versus	
Union of India & Others	Respondent
Shrimati Raj Kumari Chopra	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative 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*
4. Whether it needs to be circulated to other Benches of the Tribunal? */No*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The applicant, who is working as Upper Division Clerk (U.D.C.) in the office of the respondents, is aggrieved by the wrong fixation of his seniority and is claiming the benefit of pay and allowances with arrears due *α* and *seniority* from the ~~date~~ date, his immediate junior was promoted as Upper Division Clerk. He has also pressed for payment of costs.

2. On 19.9.1986, the Tribunal passed an interim order directing that one post of U.D.C. should be kept vacant pending disposal of the application. After the filing of *α*

the application and during its pendency, the respondents promoted the applicant as U.D.C. by office order dated 28.7.1988.

3. The facts of the case in brief are as follows. The applicant was appointed as Lower Division Clerk under the C.G.H.S. Scheme in 1963. After the completion of probation for two years, he was confirmed in the grade of L.D.C. w.e.f. 1.4.1966. The date of confirmation was, however, stated to be provisional and subject to revision. In the seniority list published by the respondents in 1973, he was shown senior to Smt. Kamlesh Kumari Khanna. The respondents issued an order of confirmation of LDCs in 1976 in which the name of the applicant was omitted and the date of confirmation of Smt. Khanna was advanced from 1.4.1966 to 25.12.1965. This order was, however, not circulated to the applicant. The respondents again published a seniority list in 1980 in which the name of the applicant was shown at serial No.200 under the list of temporary LDCs though he had already been made permanent in 1969. Thus, his seniority was altered to his disadvantage without giving him any show-cause notice. The representations made by him were of no avail. However, the respondents passed an order re-confirming the applicant w.e.f. 21.1.1982. He again represented, but no action was taken by the respondents. In the meanwhile, Smt. Khanna was promoted to UDC Cadre with

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effect from 1.1.1985 on an ad hoc basis and 5.3.1986, on regular basis.

4. The respondents have admitted in their counter-affidavit the mistake committed by them and rectified the same by passing office order dated 28.7.1988, whereby the applicant was promoted as U.D.C. w.e.f. 22.1.1986, in accordance with his due seniority. On 19.8.1991, they passed another office order, ante-dating his promotion w.e.f. 1.1.1985, i.e., the date of promotion of his immediate junior to the post of U.D.C. They, however, stipulated that this would be a paper promotion and that no arrears of pay and allowances from 1.1.1985 to 21.1.86 would be admissible. The applicant has challenged this in the present application.

5. We have gone through the records of the case carefully and have heard the learned counsel for both the parties. The learned counsel for the applicant stated that the applicant was subjected to harassment, humiliation, mental torture and recurring financial loss all these years, and that in addition to granting the reliefs prayed for, heavy costs should be imposed on the respondents. Normally, when an administrative mistake is corrected, it may not give rise to a claim for arrears of pay and allowances. However, in the instant case having confirmed the applicant and having given him a certain seniority, it

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was not legally in order for the respondents to alter the same behind his back. This is not an instance of administrative mistake. In such a case, the applicant should be put back in the same position he would have occupied had the impugned orders not been passed by the respondents. There is force in the contention of the applicant that due to the wrong orders issued by the respondents, ^{he} ~~it~~ was subjected to not only recurring financial loss but also to certain amount of humiliation before the eyes of his colleagues and superiors. In the facts and circumstances of the case, giving paper promotion to the applicant and ante-dating his promotion and seniority, is not adequate compensation to him. In order to do full justice to him, the respondents should have given him arrears of pay and allowances from the due date, together with interest, once they had realised the mistake committed by them. We, therefore, allow the application and direct that the respondents shall pay to the applicant arrears of pay and allowances from 1.1.1985 to 21.1.1986 together with interest at the rate of 12 per cent per annum. They shall comply with this direction within a period of two months from the date of receipt of this order. The applicant shall also be paid token costs of Rs.500/-. The application is disposed of accordingly.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 17/1/82
Administrative Member
SLP
140192

P.K. Kartha
(P.K. Kartha) 17/1/82
Vice-Chairman(Judl.)