

In the Central Administrative Tribunal
Principal Bench: New Delhi

OA No.1354/87

Date of decision: 19.01.1993.

Shri R.P. Sharma

...Petitioner

Versus

Delhi Administration & Another

...Respondents

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman
The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

Shri B.L. Babber, proxy
counsel for Shri B.S. Charya,
Counsel.

For the respondents

None

Judgement(Oral)
(Hon'ble Mr. Justice V.S. Malimath, Chairman)

The petitioner, Shri R.P. Sharma has prayed that the seniority list dated 14.2.1985 be quashed, as it has not been prepared correctly and for a direction to the respondents to assign him appropriate ranking in the seniority list, taking 20.10.1978 as the date of promotion to the cadre of Principal/Vice Principal/Industrial Liaison Officer/Assistant Inspector of Training. The seniority list has been produced at page 11 of the paperbook. The name of the petitioner is at serial No.22. The learned counsel for the petitioner submitted that Shri B.D. Thakur, serial No.15 and Shri H.P. Goel, serial No.19 should be placed below him in the seniority list, as the petitioner got into the promotional cadre much earlier than the said Shri Thakur and Shri Goel, i.e., w.e.f. 20.10.1978. The petitioner's case is that he was appointed on ad hoc basis w.e.f. 20.10.1978 in pursuance of the selection made by the Departmental Promotion Committee (DPC for short).

✓ As he was continuously functioning on ad hoc basis in the

promotional post w.e.f. 20.10.1978, it is maintained that the petitioner is entitled to count his seniority from the date of his first appointment on ad hoc basis w.e.f. 20.10.1978. It was maintained that the posts are required to be filled up 50% by promotion and 50% by direct recruitment. Pending direct recruitment ad hoc appointment of the petitioner was made in the year 1978. He maintains that this is a case in which the quota rule having been failed, the petitioner is entitled to count his seniority from the date of original appointment on ad hoc basis, as he has continued without interruption until his services were regularised w.e.f. 28.2.91.

So far as Shri Thakur and Shri Goel are concerned, they are both direct recruits.

2. At the outset, we should say that the petitioner is not entitled to claim relief to upset the seniority fixed by the impugned seniority list so as to affect the rights of Shri Thakur and Shri Goel without impleading them as party in these proceedings. The rights and privileges which they have acquired in pursuance of the seniority list cannot be deprived without complying with the principles of natural justice. The petitioner having failed to implead them as parties to these proceedings, cannot seek any direction at the hands of the Tribunal in the matter of seniority so as to affect those two persons. It is on this short ground that this petition is liable to be dismissed. Even on merits, we are not satisfied that the petitioner has a case for the reasons to be stated presently.

3. The petitioner's appointment w.e.f. 20.10.1978 was admittedly on ad hoc basis, pending regular recruitment to the post. He, no doubt continued in that post until his case was considered by the regular DPC, on whose recommendations the petitioner was promoted on purely temporary officiating basis by order dated 28.2.1991. The petitioner cannot count the period of service rendered by him before that date on ad hoc basis as that was qualitatively inferior to regular

service, the petitioner having been appointed on ad hoc basis without his case being considered in accordance with rules for regular promotion for consideration by the regular DPC. The order dated 28.2.1981 in express terms says that the promotion is being given on the basis of the recommendations of the DPC. So far as the promotion of the petitioner w.e.f. 20.10.1978 on ad hoc basis is concerned, it could not also be in pursuance of the selection by the regular DPC. It would be inconsistent with the promotion of the petitioner made as per order dated 28.2.1981. Though the petitioner asserts that the ad hoc promotion of the petitioner w.e.f. 20.10.1978 was made in pursuance of the selection by the DPC, that assertion of the petitioner has been controverted by the respondents in their reply. It was, therefore, for the petitioner to establish his case that though he was appointed on ad hoc basis w.e.f. 20.10.1978 and that promotion was made by following the procedure prescribed for regular promotion. The petitioner has not produced the copy of the order by which he was promoted w.e.f. 20.10.1978. The surrounding circumstances, particularly the language of the order dated 20.10.1978 make it clear that the promotion of the petitioner w.e.f. 20.10.1978 could not have been made in pursuance of his selection by the regular DPC. As the ad hoc appointment of the petitioner from 1978 to 1981 was not as a consequence of the regular promotion and in accordance with the regular selection in accordance with the rules, the petitioner cannot count the said period for seniority. Besides, it is necessary to point out that according to the petitioner's own showing the ad hoc appointment was made pending regular recruitment. If that is so, it is obvious that the ad hoc appointment was made by way of stop

gap arrangement. It is now well settled that ad hoc appointment made by way of stop gap arrangement cannot confer a right in the matter of assignment of seniority. Having regard to these findings, it is not possible to accede to the contention of the petitioner that he is senior to Shri Thakur and Shri Goel. Shri Thakur was directly recruited on 7.8.1980. So far as Shri Goel is concerned, his seniority cannot be disturbed as already stated, principally on the ground that he has not been impleaded as a party to these proceedings.

4. For the reasons stated above, this petition fails and is dismissed. No costs.

Malimath
(I.K. RASGOTRA)
MEMBER (A)

Malimath
(V.S. MALIMATH)
CHAIRMAN