

13.7.88

OA 1851/87

Present: Applicant in person.

Shri V.K. Malhotra for the respondent.

Pleadings of the case are complete. Be placed  
on board for final hearing.




( V.K. SHALI )  
DY REGISTRAR

12/4/93

Present; Applicant in Person  
On P.P. Khanna, Counsel  
for the Respondent

Arguments concluded. Order Reserved

  
( B.N. DHONDİYAL )  
MCA

  
( C.J. Roy )  
MCA

16.4.93

Further Proceedings today

By  
J. M. C.  
C

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

O.A.No.1851/87

Date of decision: 16-4-93

Shri G.S.Bhadwal

.. Applicant

Vs.

Union of India & others

.. Respondents

CORAM

The Hon'ble Mr. C.J. Roy, Member(Jd1)

The Hon'ble Mr. B.N.Dhoundiyal, Member(Admn)

For the applicant .. Applicant in person

For the respondents .. Shri P.P.Khurana, Counsel

allowed to see the judgement?

(2) To be referred to the Reporter or not?

J U D G E M E N T

(Delivered by Hon'ble Mr. C.J.Roy, Member(J))

This application is filed claiming relief for restoring his seniority and ordering his promotion with retrospective effect.

2. The applicant is working as Senior Stenographer in the office of the Director of News Services, All India Radio, New Delhi, since 1961. He has not been granted promotion even after serving for 27 years and according to him his juniors were promoted as Reporters (Monitoring) overlooking him. The applicant states that he had filed OA 350/87 in this Tribunal and the Tribunal called for the proceedings of the Departmental Promotion Committee and the OA was dismissed, on the ground that the DPC did not recommend him for promotion.

3. The applicant also states that he came to know later that the Joint Director(NR) who has written his CR

is no doubt a superior authority but had not watched his work and was hence not competent to comment on his work. Due to this, his chances of promotion are marred and hence this application. No clear cut guidelines are available as to who should write the CRs of Stenographers.

4. The respondents have filed a counter affidavit stating that the applicant had not exhausted the departmental remedies and has filed this OA raising the same points mentioned in OA 350/87 which was dismissed by the Tribunal. Thus the application is hit by the principles of resjudicata as all the points raised in OA 350/87 which were already heard and disposed of by the Tribunal are again raised in this application. The applicant has no right for promotion and more meritorious persons than the applicant were given promotion. The judgement given in OA 350/87 has become final and the applicant can not reopen the settled issue. They have also stated that the application is time barred, that the cause of action arose on 24.6.86 but the application was filed in 1987 and the applicant has not annexed copy of the impugned order. His representations are dated 22.2.86 and 20.6.86 and hence it is barred by limitation under Section 21 of the Administrative Tribunal Act.

5. The respondents have stated that the applicant is working in the General News Room and attached to more than 100 News Editors and Assistant News Editors in various shifts and duties. In fact no Stenographer ever works or has ever ever worked with any particular editor for a period of more than three months and thus the supervision of the applicant's work is vested with the

Joint Director of News who writes the CRs of all stenographers. They also state that the system of grading is meant to cover different grades and quality of performance. Various guidelines are often issued to reporting authorities advising them how to use their discretion. The DPC takes the CR into consideration and decides promotion according to the guidelines provided to them and that there is nothing wrong or arbitrary in the preparation of CR and its marking or the proceedings of the DPC.

6. The applicant has filed a rejoinder more or less asserting the same points.

7. We have heard the applicant in person and the learned counsel for the respondents Shri P.P.Khurana. The short point for consideration is whether or not the applicant is entitled for promotion and if so with retrospective effect.

8. We hold that the application is barred by constructive resjudicata as identical matters were raised in OA 350/87 which was dismissed by the Tribunal. The new point raised in the OA regarding competence of the Joint Director(NR) is also not maintainable in view of the explanation furnished by the respondents and admitted by the applicant that he has not worked under any officer for more than 3 months.

9. The application is therefore dismissed with no orders as to costs.

*B.N. Dhoundiyal*  
(B.N.Dhoundiyal) 14/4/93 (C.J.Roy) 16/4/93

Member(A)

Member(J)