

In the Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. OA-1886/87

Date: 25.5.1990.

Shri Charan Singh Applicant

Versus

Union of India Respondents

For the Applicant Shri Sant Lal, Advocate

For the Respondents Smt. Raj Kumari Chopra, Advocate

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Shri D.K. Chakravorty, 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*

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

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following reliefs:-

(i) To direct the respondents to make fixation of his pay in Group 'D' Cadre w.e.f. 5.2.1980, i.e., the date from which he has been regularised and given seniority; and

(ii) to grant arrears of pay and allowances on account of such fixation of pay.

2. The facts of the case in brief are that the applicant has worked as Casual Labourer on daily-wages in Foreign Post Office, New Delhi, since 6.6.1974. He fulfilled the conditions of eligibility for regular appointment in Group 'D' Cadre. He was allowed to take Literacy Test held on 3.2.1980 for appointment to Group

Ans

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'D' Cadre on regular basis in Foreign Post Office. He was declared successful in the test vide Memo. dated 5.2.1980 which is at Annexure A-3 to the application. He was, however, not appointed on regular basis in Group 'D' Cadre. He moved the Delhi High Court with a writ petition which was dismissed in 1984. He preferred a Special Leave Petition to the Supreme Court which was allowed by the Supreme Court and on 2.2.1987, ^{or} The S.L.P. was disposed of with the following order:-

"Having regard to the facts and circumstances, the respondents are directed to regularise the service of the petitioner in Class IV foreign post."

3. Thereafter, the respondents issued Memo. dated 5.3.1987, whereby his services were regularised w.e.f. 2.3.1987 by giving him a temporary appointment in Group 'D' Cadre. He joined duty on 5.3.1987 as a regular Group 'D' official.

4. The contention of the applicant is that he was due to be regularised w.e.f. 5.2.1980, when he was declared successful in the Literacy Test for regular appointment held on 3.2.1980. The representation submitted by him in this regard on 10.4.1987, has not received any favourable response. However, the respondents have given him notional seniority w.e.f. 5.2.1980 with no financial benefits (vide letter dated 6.10.1987 at Annexure A-2 to the application).

5. The case of the respondents is that the pay of the applicant has been stepped up correspondingly with that of his juniors, but he is not entitled to payment of arrears on account of revision of pay. They have also argued that the judgement of the Supreme Court is only "on humanitarian grounds without discussing the facts and circumstances of the case." On

6. We have gone through the records of the case and have heard the learned counsel for both the parties. We are of the view that the applicant is entitled to the reliefs sought in the present application. The manner in which the respondents have characterised the order of the Supreme Court dated 2.2.1987 mentioned above, is, to say the least, not appropriate or warranted. In the instant case, the Supreme Court has given the directions to the respondents to regularise the services of the petitioner after taking into account the facts and circumstances. The applicant having been declared successful in the Literacy Test for regular appointment vide Memo. dated 5.2.1980, would be entitled to be regularised w.e.f. the said date. He would also be entitled to other consequential benefits, including regular pay-scale from 5.2.1980 and not merely notional seniority. The regularisation envisaged by the Supreme Court's order relates back to 5.2.1980, when he qualified in the Literacy Test, which is the pre-requisite for regularisation. We, therefore, direct the respondents to fix the pay of the applicant in Group 'D' Cadre w.e.f. 5.2.1980 and to release the arrears of pay and allowances becoming due on account of such pay fixation within a period of two months from the date of communication of this order.

The parties will bear their own costs.

D.K.C.
(D.K. Chakravorty)
Administrative Member

25/2/80

Q.C.
25/2/80
(P.K. Kartha)
Vice-Chairman (Judl.)