

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

CCP No. 122/90 In

O.A. No. 586/87

T.A. No.

199

DATE OF DECISION 26.10.1990.

Shri Ziauddin	Petitioner
Shri B.S. Charya,	Advocate for the Petitioner(s)
Versus	
Delhi Admn. & Others	Respondent
Mrs. Avnish Ahlawat,	Advocate for the Respondent(s)

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

The Hon'ble Mr. 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? *No*
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, V.C.)

The petitioner in this C.C.P. is the original applicant in OA-586/87 which was disposed of by the judgement of the Tribunal dated 27.10.1989. While working as Public Relations Assistant, he had filed OA-586/87, seeking several reliefs in regard to his pay and promotion dating from 1964 onwards. One of the reliefs claimed by him was encadrement of the post of Public Relations Assistant and granting him of consequential benefits. The application was admitted only to the extent of the above mentioned relief. In the operative part of the judgement, the Tribunal directed as follows:-

"9. We, therefore, order and direct in the interest of justice and equity that the respondents should encadre the post of Public Relations Assistant w.e.f. 1982 to the mainstream inspectorial cadre and consider the

applicant for appointment against the same in accordance with the rules with consequential benefits of his fitment in the DASS. If the respondents feel that any officer in the Service is thereby likely to be adversely affected, a supernumerary post may be operated in the relevant cadre for the applicant which may be allowed to lapse with his retirement on superannuation. The consequential benefits by way of arrears of pay and allowances should be paid to him w.e.f. 1.1.1989. The applicant is due to retire in the next three years on superannuation. We, therefore, direct that the procedure of encadring the post and subsequent appointment and fitment of the applicant under the rules and creation of supernumerary post, if considered necessary, should be complied with within three months from the date of communication of this order."

2. On 4.4.1990, the respondents issued an order stating that in pursuance of the provisions contained in Clause(h) of Rule 2 read with sub-clause (1) of Rule 4 of DASS Rules, 1967 and in pursuance of the judgement of this Tribunal dated 27.10.1989, the Administrator of the Union Territory declares the post of Public Relations Assistant in the Industries Department, Delhi Administration, as "Duty post" in Grade II of DASS w.e.f. 2.2.1982. The petitioner has contended that according to the rules of 1967, once encadrement of an ex-cadre post is made, the incumbent is entitled to get seniority on the basis of the date of appointment to the particular post which was earlier shown as ex-cadre post and subsequently encadred. Thus, his seniority should have been assigned from 17.7.1964 in Grade II and given consequent placement in the seniority list in accordance with Delhi Administration Seniority Rules, 1954/1965. This has not been done. By Memo. dated 4.5.1990, the respondents informed the petitioner that the matter relating to assignment of seniority to him in Grade II

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DASS had been taken up with the Services Department of Delhi Administration, who had informed that the assignment of seniority to him would be considered as and when the seniority list of Grade II officials appointed for the period from 4.12.1980 was prepared. Regarding payment of arrears etc., the Services Department had informed that so far the seniors of the petitioner have not been promoted to Grade I of DASS and that he will be considered for promotion in his turn.

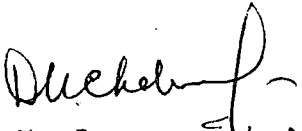
3. The respondents have contended that they have fully implemented the judgement. They have submitted that though the petitioner had claimed relief of seniority from 1964 onwards in OA-586/87, the Court admitted the application only for one claim of encadrement of the post of Public Relations Assistant and granting him of consequential benefits. The post of Public Relations Assistant has been encadred in Grade II of the DASS w.e.f. 2.2.1982 and he has been appointed to the said grade from the said date. Persons senior to him in Grade II have not been promoted so far. He shall be considered for promotion to Grade I as and when he becomes eligible for consideration in his turn on the basis of the seniority assigned to him.

4. It will be noticed that while the petitioner is claiming seniority from 1964 onwards, the respondents^a have given him seniority from 2.2.1982. The respondents^a have also referred to Clause 6 of Sub-rule (1) to Rule 26 of the Delhi Administration Subordinate Service Rules, which read as follows:-

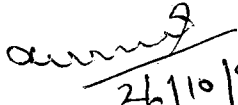
"In respect of officials inducted to the cadre from Ex-Cadre, the seniority, unless otherwise specified, will count from the date of notification through which the official was inducted in a particular Grade of Service."

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5. In the light of the above, it would be apparent that the respondents have implemented the judgement of the Tribunal according to their understanding. It may be that more than one view is possible in the matter and the respondents have adopted one view. This is not a case where the respondents can be said to have deliberately flouted the directions contained in the judgement. We see no merit in the C.C.P. and the same is dismissed. The notice of contempt is also discharged.


(D.K. Chakravorty)
Administrative Member

26/10/90


(P.K. Kartha)
Vice-Chairman(Judl.)

26/10/90