

CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH
NEW DELHI

O.A. NO. 400/1987

DATE OF DECISION : 6.8.1991

12

Charanjit Singh Dhillon ... APPLICANT

VS.

Union of India ... RESPONDENT

Applicant in person.

Mrs. Rajkumari Chopra, Counsel for Respondent.

CORAM : HON'BLE SHRI G. SREEDHARAN NAIR, V.C.(J)

HON'BLE SHRI S. GURUSANKARAN, MEMBER (A)

.....

JUDGMENT

G. Sreedharan Nair, V.C.(J) :

With the setting up of the Directorate of Communication some operational posts were sanctioned in various grades. Pending finalisation of the Recruitment Rules appointments were made by deputation, re-employment etc. By the order dated 27.4.1976 the applicant, who was holding the rank of ^{W.e.f.} Deputy Commander in the Border Security Force (BSF), appointed as Communication Officer on deputation basis. The Recruitment Rules for the post of Communication Officer were notified in September, 1976 which provided for transfer on deputation also. While on deputation, the applicant requested permanent absorption as Communication Officer and he was appointed on transfer basis w.e.f. 9.11.1981 with the approval of the U.P.S.C.

2. The grievance of the applicant is that service in grade of Communication Officer w.e.f. 10.6.1976, the date of his initial deputation, is not being reckoned for the purpose of seniority and promotion. The applicant prays for directing the respondent to assign seniority giving due weightage to the service rendered

in the equivalent grade in parent department and the service on deputation, ^{and} for consequential benefits including proforma promotion to the post of Assistant Director w.e.f. 10.4.1981.

3. In the reply filed by the respondents it is contended that the applicant has been assigned seniority in the grade of Communication Officer with effect from the date of his appointment on transfer basis, i.e., 9.11.1981. It is contended that the service rendered on deputation does not count for seniority. It is also stated that though an O.M. has been issued by the Department of Personnel and Training on 29.5.1986 in respect of such cases, it cannot apply to the applicant as it has operation only from the date of issue.

4. The facts are not in controversy. The short question that arises for determination is whether the applicant is entitled to have his seniority in the cadre of Communication Officer reckoned from the date of his initial deputation, i.e., 10.6.1976.

5. The applicant has placed reliance on a judgment of the Supreme Court in K. Madhavan Vs. Union of India (JT 1987 (4) SC 43) wherein it was held that it will be against all rules of service jurisprudence if a Government servant holding a particular post is transferred to the same or equivalent post in another Government department, the period of service in the post before his transfer is not taken into consideration in computing his seniority in the ^{red} transfer post. Reference was also made to the decision of this Bench of the Tribunal in T-874/85 and T-384/85 delivered on 11.2.1987. In that case the service of the applicant from the date on which he joined the organisation as Assistant Director, after seeking retirement from the

Army Signal Corps, where he was engaged earlier, was directed to be taken into account for the purpose of regularisation.

6. Reference may be made in this context to the O.M. dated 29.5.1986 issued by the Deptt. of Personnel relating to the seniority of persons absorbed after being on deputation. It is provided therein that in the case of a person who is initially taken on deputation and absorbed later on, if he was already holding on the date of absorption the same or equivalent grade on regular basis in his parent department, such regular service in the grade shall also be taken into account in fixing his seniority subject to the condition that he will be given seniority from the date he has been holding the post on deputation or the date from which he has been appointed on regular basis to the same or equivalent grade in his parent department, whichever is later. It appears that this principle has not been extended in the case of the applicant on the ground that his appointment on transfer and absorption were prior to the issue of the O.M. It is to be noticed that the principle laid down by the O.M. is in consonance with the law as laid down by the Supreme Court and as such though the absorption of the applicant was before the O.M., it is open to him to claim recognition of seniority based on the principle ~~anunciated~~ ^{anunciated} therein.

7. According to the applicant he secured promotion to the next higher grade in his parent department under the Next Below Rule w.e.f. 10.4.1981 and as such he should be allowed proforma promotion with effect from that date to the post of Assistant Director. This plea is resisted by the respondents on the ground that such promotion in the parent department does not confer the right to claim promotion to the higher post in the borrowing department, but entitles

only to exercise fresh option for drawal of pay in the deputation post in case he chooses to continue on deputation. This contention of the respondent has to be accepted.

8. In the result, the respondent is hereby directed to assign seniority to the applicant in the cadre of Communication Officer with effect from the date of his initial deputation. The applicant shall be allowed the benefits that flow as a consequence.

The application is disposed ^{of} as above ~~leaving the parties to bear their own costs.~~

Gurusankaran
6/8/1991

(S. Gurusankaran)
Member (A)

6/8/1991
6-8-1991

(G. Sreedharan Nair)
Vice-Chairman (J)