

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 586/87
T.A. No.

1987

DATE OF DECISION 27.10.1989

Shri Zia-Ud-Din Applicant (s)

Shri B.S. Charya Advocate for the Applicant (s)

Versus
Delhi Admn. & Another Respondent (s)

Shri B.R. Prashar Advocate for the Respondent (s)

CORAM :

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

The Hon'ble Mr. I.K. Rasgotra, 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*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

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

The applicant, who is presently working as Public Relations Assistant in the Directorate of Industries, Delhi Administration, filed this application in the Tribunal on 27.4.1987 wherein he has sought several reliefs in regard to his pay and promotion dating from 1964 onwards. One of the reliefs claimed by him is 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.

2. After hearing the learned counsel for both the parties and going through the records of the case carefully, we were

....2...

(13)

convinced that this is a case in which the applicant had been made to work on several posts for several years without giving him the benefit of pay of these posts and without showing him as holding a cadre post. This will be borne out from the following service particulars brought out in a note recorded by the Deputy Director of Industries (Administration) while recommending the encadrement of the post held by the applicant:-

<u>Period</u>	<u>Post held by Shri Ziauddin</u>
17.7.64 to 21.6.65	Inspector (Industries)
21.6.65 to 15.3.73	Inspector (Land)
15.3.73 to 31.3.74	Survey Inspector
1.4.74 to 31.5.75	Census Supervisor Rs.550-900
27.8.75 to 4.12.75	Khadi Supervisor & Handicraft Inspector
4.12.75 to 31.7.84	Public Relations Officer
4.12.75 to 31.7.84	Staff Welfare Officer
1.8.84 to till date	Inspector (in Regd. Branch)

(Vide Rejoinder affidavit, pages 76-77 of the paper-book).

3. The applicant began his service as a Lower Division Clerk w.e.f. 13th August, 1959. He was promoted as U.D.C. in 1962. In 1964, his post was designated as Draughtsman in the pay-scale of Rs.150-380. The posts of Inspector (Industries) and Inspector (Land) in which he has worked, carried the pay-scale of Rs.210-380. There was also a pay-scale of Rs.210-425 for the post of Inspector (Land). The scales of Rs.150-380, 210-380 and 210-425 were merged after the recommendations of the Third Pay Commission were

Q

16

accepted w.e.f. 1.1.1973 and brought in a unified scale of Rs.425-700.

4. The post of Census Inspector carried the pay-scale of Rs.550-900. The post of Khadi Supervisor carried the pay-scale of Rs.425-700. All the above mentioned posts of Inspector (Industries), Inspector (Land), Survey Inspector, Census Supervisor, and Khadi Supervisor were encadred but not the post of Draughtsman which was re-designated as Public Relations Officer, which post the applicant has been holding since 1982.

5. The applicant had made numerous representations to the respondents dating from 13.3.1973 but these did not yield any results. The question of encadrement of the post of Public Relations Assistant in the Delhi Administration Subordinate Service had also figured in the notings and discussions of the officers of the Delhi Administration at various levels. At a meeting held in the room of the Chief Secretary after the filing of the present application in the Tribunal, the Chief Secretary is stated to have observed that the applicant's case may be considered for further promotion since he is working in the same scale of pay for about 23 years. He was, therefore, of the view that the applicant should be considered for further promotion on some post whether it may be in the Information & Publicity Department, or in any department of the Administration for any ex-cadre post. One of the conclusions reached at the meeting was that since there is no promotion channel beyond Public Relations Assistant for the applicant, the Administration department should explore the possibility of considering this post as a feeder post for a higher assignment in due course and inform the Tribunal that his case for further promotion to some higher post will be

a

examined and considered (vide Annexure P-20 to the additional rejoinder on behalf of the applicant, pp.97-98 of the paper-book).

6. During the oral arguments, Shri Prashar, learned counsel for the respondents, drew our attention to a letter written by the Deputy Secretary (Services), Delhi Admn., to the Joint Director of Industries (Admn.), Delhi Admn., in October, 1989. In para.2 of the said letter, it has been stated that since the applicant has stagnated for many years, the possibility of providing promotional avenues to him on any ex-cadre post in the department should be explored.


7. The claim of the applicant for encadrement of the post of Public Relations Assistant and to consider him for further promotion, has to be considered in the backdrop of the factual situation outlined above. The applicant was posted as Draughtsman in 1964 although he did not possess any qualifications for the post. During 1964 to 1982, he was drafted to hold several posts such as Inspector and so on which had nothing to do with his original designation of Draughtsman. When the incongruous and untenable position came to be highlighted, the Administration converted the post to that of Public Relations Assistant, which again had no avenues of promotion. The exercise hardly achieved any purpose.

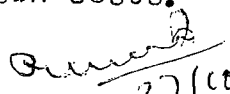
8. The Supreme Court has observed that reasonable promotional opportunities should be available in every wing of public service. That generates efficiency in service and fosters appropriate attitude to grow for achieving excellence in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly (vide

2

Raghunath Prasad Singh Vs. Secretary, Home (Police) Department, Government of Bihar, A.I.R. 1988 S.C. 1030). In the instant case, the applicant has stagnated in the same scale of pay for 23 years. In our opinion, there was neither need for the post of Draughtsman nor that of Public Relations Assistant. The post should have been encadred in 1982 to one of mainstream cadre of Inspectors in the Department of Industries. This would have also been in consonance with the actual utilisation of the services of the applicant all along.

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^s, if considered necessary, should be complied with within three months from the date of communication of this order. The parties will bear their own costs.


(I.K. Rasgotra)
Administrative Member


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