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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

O.A. NO.1099/87.

DATE OF DECISION: 10.12.1992.

Sardar Kulwant Singh.

...Petitioner.

Versus

U.O.I. & anr.

...Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.  
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioner.

Shri Umesh Misra, Counsel.

For the Respondents.

None.

JUDGEMENT(ORAL)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman).

The petitioner, Sardar Kulwant Singh, joined as a Senior Computer in the year 1963. In due course, he earned promotion as Assistant Superintendent in the year 1965. He was further promoted to the post of Superintendent on 1.10.1966. Thereafter, he was selected and appointed in the Ministry of Agriculture as Research Investigator (Grade-I) on 26.5.1969. From that date onwards he had served in the Ministry of Agriculture as Research Investigator Grade-I and retired on attaining the age of superannuation on 31.8.1987. In this petition filed in the year 1987, he has prayed for a direction to the respondents to promote him to the cadre of Deputy Director on the basis of his seniority in the notification dated 8.5.1986 as on the date on

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which his junior Shri P.D. Joshi was appointed. He has further prayed that he should be given such a posting before his retirement from service and consequential benefits.

2. The entire basis for the relief claimed by the petitioner as pleaded in the Original Application is the order passed on 8.5.1986 by the Govt. of India, Ministry of Planning, Department of Statistics. It is stated therein that the said order is being issued in compliance with the direction of the Supreme Court in its judgement dated 11.2.1986 in Narender Chadha & Ors. Vs. Union of India & Ors and in supersession of the earlier notification of appointments to Grade IV of Indian Statistical Service of officers included in the Select Lists prepared in the years 1970, 1982 and 1984 for such appointments. It is further stated that the President is pleased to appoint, on promotion basis and under Rule 8(1)(a)(ii) of the ISS Rules, 1961, the officers (who have been appointed to the posts of Assistant Directors and equivalent in the scale of pay of Rs.700-1300 ) to Grade IV of ISS with effect from the dates shown against the name of each person in the list, which is a part of that notification.

✓ The name of the petitioner is at Serial No. 233 and

the date of his regularisation as Grade IV employee has been shown as 30.10.1976. It is also necessary to point out that the notification further states that the persons shown in the said list will continue to occupy the posts held by them prior to the issue of these orders until further orders. The petitioner on the strength of the seniority accorded to him as Grade IV of the ISS, maintains that he is entitled to be deemed to be promoted to the higher cadre of Deputy Director as on the date on which his junior in the said list was promoted.

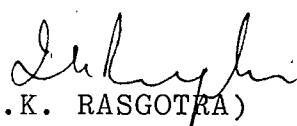
3. The stand taken by the respondents in the reply is that they have committed a mistake in giving the benefit of the judgement of the Supreme Court in Narender Chadha's case to the petitioner. They have stated that though they realised this mistake, steps were not taken to delete the name of the petitioner having regard to the pendency of the litigation before the Tribunal. They thought that they would not be justified to correct the mistake without the leave of the appropriate Court. Mere assertion of the respondents in the reply that the inclusion of the name of the petitioner is a mistake is not enough. They have to establish that the inclusion was a result of the mistake. They have pleaded in the reply that the petitioner was never

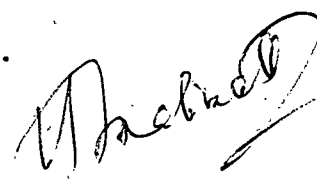
appointed as on ad hoc basis or otherwise to Grade IV. It is not the case of the petitioner that he was ever appointed on ad hoc basis or promoted to Grade IV. He does not rely upon any order of appointment to Grade IV in this behalf. It is also not disputed that so far as the cadre in which the petitioner was placed before he migrated to the Agriculture Department, namely to the cadre of Superintendent, is concerned, it was a feeder category of Grade IV. Thus, it becomes clear that it is by that process that the petitioner could have aspired to be promoted to Grade IV assuming he was entitled to continue in the department. The law laid down in the Narender Chadha's case of the Supreme Court is quite clear. The directions are specific namely, those appointed to Grade IV on ad hoc basis shall be regularised in that grade with effect from the date of continuous officiation in that grade. In other words, the direction is to convert an ad hoc appointee Grade IV into a regular appointee Grade IV from the date on which he continues to officiate. That decision has, therefore, no application to cases like the petitioner who were in the feeder category and who would have been eligible for consideration of promotion as and when vacancies were filled up in accordance with the rules. We are, therefore, satisfied

respondents in the  
with the stand of the/reply that they have committed.  
a mistake assuming that the case of the petitioner is  
governed by the judgement of the Supreme Court in Narender  
Chadha's case. The inclusion of the petitioner's name in  
the notification dated 8.5.1986 as a person who got Grade  
IV of the ISS is based on a mistaken understanding of the  
position. The petitioner cannot be granted any relief,  
the foundation of which is the mistake. The petitioner  
can pray only for enforcement of his legal rights and not for  
enforcement of the mistake committed by the respondents.  
We have, therefore, no hesitation in holding that the  
petitioner cannot secure any relief in this behalf.

4. As regards promotion to the cadre of Grade IV is  
concerned, the petitioner has not come out with a specific  
case that any promotion took place when his juniors were  
considered without considering his case. There is no such  
specific prayer also in this case. Hence, no relief is  
possible to be granted in this petition.

5. For the reasons stated above, this petition fails  
and is accordingly dismissed. No costs.

  
(I.K. RASGOTRA)  
MEMBER(A)

  
(V.S. MALIMATH)  
CHAIRMAN

'SRD'  
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