

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

RA NO.95/91 (MP-398/91) IN
OA NO.1390/88

DATE OF DECISION: 1.10.1991.

SHRI S.V. BOPARDIKAR ...APPLICANT

VERSUS

UNION OF INDIA ...RESPONDENTS

CORAM:

THE HON'BLE JUSTICE MR. AMITAV BANERJI, CHAIRMAN

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

O R D E R

MP-398/91 was filed by the petitioner in OA-1390/88 praying that the judgement in the said O.A. delivered on 31.10.90 be modified so as to give relief to the applicant as claimed by him in his Original Application and written arguments advanced on his behalf. MP-398/91 was disposed of vide our order dated 25.2.91. The Bench had observed that:

"If it is to be treated as a Review Application, then the Misc. Petition has to be amended in accordance with law and grounds for review has also to be stated. Further, if there was delay in filing the Review Application, a Misc. Petition for condonation of delay supported by an affidavit explaining the delay has to be filed. In the absence of the above, it is not possible at this stage to convert this Misc. Petition into a Review Application. We are unable to amend or modify or issue further directions on the basis of this Misc. Petition."

In this view of the matter, this Misc. Petition has no force and must fail. However, in case the petitioner desires to convert this Misc. Petition into a Review Application, he is granted two weeks

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time to do so. In case he is not inclined to do so, this Misc. Petition will stand rejected."

Thereafter the petitioner filed MP No.1138/91, praying that MP-398/91 may be converted into Review Application for modification of judgement dated 31.10.1990 in OA-1390/88 and that the delay in filing the R.A. may be condoned. The prayer made by the applicant in the said MP converted into RA is as under:-

"(A) The Judgment dated 31.10.1990 passed as a common Judgment in OA-818, 1047, 1070 of 87 and OA 1390 of 1988 be modified so as to give relief to the Applicant as claimed by him in his original application No.1390 of 1988 and written arguments advanced on his behalf.

Tribunal

(B) That this Hon'ble/ be pleased to direct the Department to allow consequential benefits to the applicant who had been assigned the date of 21.1.1967 on the basis of continuous length of service and for that matter the applicant may be placed above S/Shri T. Ramasubramanian, S.K. Bhatia, M.K. Banerjee and Soundira Rajan who were admittedly appointed after 21.1.1967."

The applicant has conceded that the Department has allowed him seniority w.e.f. 21.1.1967, i.e., the date on which he was promoted as Assistant Development Officer on the principle of continuous length of service but he has not been allowed the consequential benefits, flowing from the said seniority. He, however, submits that while the Tribunal on consideration of various case-laws held that the inter-se seniority must be based on continuous length of service irrespective of quota and quashed the seniority list of Development Officers of 1984, the applicant has not been granted the consequential benefits emanating from the re-fixation of seniority as Assistant Development Officer

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w.e.f. 21.1.1967. The record of the O.A. No.1390/88 shows that the applicant had prayed for the following reliefs:-

- "a) That the impugned seniority list of Assistant Development Officers prepared by respondents in 1968, 1972 and 1979 and that of Development Officer in 1984 issued vide circular letter dated 17.4.84 should be quashed as invalid, improper and inoperative;
- b) respondents may be directed to place the applicant in the seniority list of Assistant Development Officer on the basis of his actual date of promotion w.e.f. 21.1.67. The direct recruits should be placed on the basis of their actual date of appointment;
- c) hold that the applicant is entitled to all consequential benefits by way of promotion etc. when persons junior to him were so promoted to the higher post. In any case the applicant should be given benefit in the seniority list of 1984 by placing him at S.No.2 and giving him the consequential benefits of regularisation in the grade of Development Officer and further promotion to the higher post;
- d) call upon the respondents to compile a proper and valid seniority list in accordance with rules and legal pronouncements for the post of Assistant Development Officer and then issue final seniority list by way of proper circular order."

He, further, submits that as far as relief regarding re-fixation of seniority is concerned the same has been granted to him vide judgement of the Hon'ble Supreme Court in Writ Petition (Civil) No.13692-98/84 - B.S. Narula &

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Ors. vs. U.O.I. dated 9.12.1988 wherein the Apex Court had quashed the impugned seniority list of Assistant Development Officers. The applicant was concerned with the consequential benefits flowing from the re-fixation of his seniority w.e.f. 21.1.1967, consequent to the quashing of the seniority list impugned in B.S. Narula (supra) case.

The operative part of the common judgement dated 31.10.1990 delivered by the Tribunal in OA Nos.818/87, 1047/87, 1070/87 and **1390/88** reads as under:-

"In the result, therefore, we are of the view that the applicants in these O.As are entitled to have their seniority computed afresh from the date of their initial appointments on being regularised. We, therefore, allow these O.As accordingly and direct the respondents either to correct the seniority list of 1984 or to draw a fresh seniority list in the light of the judgement. The applicants will be entitled to consequential benefits as well."

When the above judgement was delivered, the Hon'ble Supreme Court had already quashed the seniority list of Assistant Development Officers in B.S. Narula (supra's) case. The operative part of the said judgement reads as under:-

"In the result, the Writ Petition allowed. The impugned seniority list is quashed with a direction to the respondents 1 and 2 to re-do the seniority list in accordance with the law and in the light of the principles laid down by this Court in the aforesaid decisions. Upon re-doing the seniority list, if the petitioners or any one of them is entitled to higher ranking they shall be given the consequential benefits flowing therefrom.

Seniority list shall be prepared within four months from today."

The judgement of the Hon'ble Supreme Court in B.S. Narula (supra's) case leaves no ambiguity whatsoever that

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upon redrawing the seniority list, if the petitioners or any one of them is entitled to higher ranking they shall be given consequential benefits flowing therefrom. The Tribunal also in its judgement the operative part of which has been reproduced above gave a clear direction to the effect that:

- a) to compute seniority afresh from the date of initial appointment (on being regularised);
- b) either to compute the seniority list of 1984 or to draw a fresh seniority list in the light of the judgement; and
- c) to allow consequential benefits to the applicants.

It may be noted here that seniority list of Assistant Development Officers/Development Officers both were to be redrawn in accordance with the judgement of the Hon'ble Supreme Court/Tribunal and consequential benefits were to be allowed. Accordingly, we clarify that the applicants whose seniority has been revised, consequent to the quashing of seniority list of Assistant Development Officers/Development Officers of 1984 in accordance with the judgement of the Hon'ble Supreme Court/Tribunal, as the case may be, would be entitled to be considered for higher grade posts from the date their juniors were promoted. Their pay may be fixed on notional basis, if as a consequence of the above order they are promoted earlier. They would be also entitled to consequential benefits. The respondents are further directed to complete the process of implementing the judgement in the light of the above clarifications within a period of 12 weeks from the date of communication of this order.

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER (A)

1/10/91

Amitav Banerji
(AMITAV BANERJI)
CHAIRMAN

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