

Central Administrative Tribunal
Principal Bench

R.A. No. 115/94

in

O.A. No. 1782/88

New Delhi, this the 8th day of June, 1995.

Hon'BLE SHRI J.P. SHARMA, MEMBER (J)
Hon'BLE SHRI P.T. THIRUVENGAM, MEMBER (A)

Shri S.N.Dhondiyal,
C/o Sh. P.T.S.Murthy,
Advocate
JG-1-59-A, Vikas Puri,
New Delhi- 110 018. Review applicant
(By Shri P.T.S.Murthy, Advocate)

Versus

Union of India through

1. Secretary,
Ministry of Environment,
Lodhi Complex,
New Delhi.
2. President,
Forest Research Institute,
& College,
P.O. New Forest,
Dehradun. Opposite parties.
(By Shri V.K.Mehta, Advocate)

Judgement

by Hon'ble Shri J.P.Sharma, Member (J)

The review applicant filed this R.A. aggrieved
by the judgement dated 6/12/1993 by which the original
application was disposed of with the direction that the

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same is not maintainable and Registry to return the application to the applicant for presentation to the competent forum. In the R.A., the applicant's counsel pointed out the error on the face of the judgement itself that the applicant claimed the benefit of his service for promotional post to R.A. Grade-I at a time when he was in Forest Research Institute & Colleges and the affairs of the institute were governed by the Central Government through the Secretary, Ministry of Environment. The Forest Research Institute & College (FRI&C) was registered as a Society under the Registration Act only on 12th March, 1991, therefore, the disposal of the application that the grievance of the applicant is not entertainable under C.A.T. Act, 1985 and cannot be correct position of law.

We have heard the learned counsel for the respondents/ opposite parties Shri V.K.Mehta and the learned counsel has rightly conceded that the Indian Council of Forestry Research & Education was registered under Act 21 of Registration Act, 1860 by the Registrar of Societies on 12th March, 1991. Therefore, if there was any grievance of the applicant prior to that date when he came under the control of an autonomous body i.e. Indian Council of Forestry Research and Education can be decided by the Tribunal. We, therefore, recall our order dated 6th December, 1993 and propose to hear this application again on merit. The review application is, therefore, allowed to

this extent. We heard the learned counsel on merit also. The learned counsel for the applicant did not dispute the registration by the Registrar of Societies of the Indian Council of Forestry Research & Education on 12.3.1991. In view of this, it is, therefore, clear that the Forest Research Institute and its ~~also~~ employees have come under autonomous body Indian Council for Forestry Research and Education and affairs of the institutions are to be managed by that autonomous body including the service conditions of the employees.

The grievance of the applicant as pointed out in the original application is for the grant of relief that the respondents be directed to promote the applicant from Grade-II to Grade-I R.A. with retrospective effect from the earlier date on which the junior was promoted with arrears of salary from the date of promotion between Grade-I R.A. from Grade-II R.A. The respondents have contested this claim of the applicant. The contention of the learned counsel is that the applicant was appointed as a direct recruit on 18/9/1964 as Assistant Foreman in Q&P Branch. He had not been promoted for the last 24 years and has the same status of Assistant Grade-II ~~or~~ Assistant Foreman ever since his recruitment while his junior who joined service with the respondents after the applicant has been promoted from R.A. Grade-II to RA Grade-I. He has given a list of such juniors in annexure-I of the application. The date of joining of the first junior Shri H.B.Naithani is 1/10/1964

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the name of other such person upto serial No. 13 is after that. The applicant had joined the post in September, 1964. All these persons are working in the grade of RA-I. However, Shri H.B.Naithani at serial no. 1 is a direct recruit. Only Shri R.C.Sharma at serial no. 4, Onkar Narayan at serial number 7 and Shri B.L.Gandhi at serial No. 10 and Shri P.B.Dobriyal at serial no. 13 are by promotion.

The applicant has filed this list only of Research Assistant Grade-I though by order dated 24/1/1986 the applicant was adjusted against high post of RA Grade-I (Foreman) (Pulp Mill) in the scale of Rs. 425-700 but will draw Pay in the scale of Rs. 330-560/-, hence it was only adjustment and not a promotion. However, in the present application there is no grievance of the applicant with respect to the order dated 24.1.1986 which was made effective from 31.1.1986 (AM). Though he was adjusted against the high post of R.A. Grade-I (Pulp Mill) but was given the pay scale of lower post in the pay scale of 330-560/-. The applicant has been posted in C&P Branch. Now seeing to the seniority list which the applicant has referred to in the original application as well as in the R.A., we find that there none of the Research Assistant Grade-I are working in C&P Branch. The stand taken by the respondents is that no junior to the applicant in C&P Branch has been promoted. The line of promotion of the applicant is against the post of R.A. Grade-I (Head Paper Machine Man) and as per the notified

recruitment rules dated 23.6.1983 the incumbent of the post of RA-Gr.II(Asstt. Foreman) with five years service in the grade subject to fitness is eligible for consideration for promotion to the post of R.A. Gr.I (Head Paper Machine Man) and not for promotion to the post of R.A. Gr.I(General).

The respondents have categorically stated that there was no post available of Head Paper Machine Man against which the applicant could have been considered for promotion.

In reply in the rejoinder, the applicant has re-iterated that the respondents have created artificial difference in the line of promotion of the R.A. Gr.I (Head Paper Machine Man) from that of R.A. Gr.I(General). The applicant in the rejoinder has referred to a case of R.P. Bhola who was R.A. Gr.I in Cellulose and Paper Branch Branch was promoted as R.A. Gr.I (IV Plan) in Forest Soils Silva Branch and one Shri B.C. Ramola of Wood Preservation was promoted to Gr.I "Silviculture Branch" by the order dated 31.12.1966. The fact stated by the applicant in rejoinder is also substantiated by the order dated 31.12.1960. However, the applicant has not filed any such rule or notification by which such promotion can be effected in Gr.I R.A. of different discipline. It may be that the respondents in the case of Bhola and Ramola did not adhere strictly to the rules but when

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decided judicially the grievance of the aggrieved person, the recruitment rules which are statutory in nature cannot be lost sight of. The respondents have clearly stated that no person junior to the applicant has since been promoted. The applicant has also now been promoted and an order in this respect has been filed dated 12.6.1990. A copy of the order has been shown to us and placed in part 'A' of the file. The prayer in the O.A. is to grant promotion to the applicant from a date when any of his junior has been promoted. The respondents specifically denied this fact that junior to the applicant has ^{not} been promoted earlier to 12/6/1990 in the C & P Branch. The respondents have also stated that there was no vacancy available to keep the applicant in the C & P Branch and this is established by the fact that the applicant has only been adjusted w.e.f. 24.1.1986 on the post of R.A. Gr.I though he substantially remained in the R.A. Gr.II and it may be because there was no sanctioned post in R.A. Gr.I (Foreman (Pulp Mill)).

Thus, after review of the earlier judgement though we are substituting another judgement in place of the earlier judgement but the applicant is not entitled to any of the reliefs he has prayed for for antidating his promotion as R.A. Gr.I from 12.6.1990 to a date from his junior has been promoted because it has not been shown that the junior to the applicant has been promoted earlier. The

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22

alleged seniority list also is of Grade I~~V~~ R.A. which only goes to show the promotion given to different officials in R.A. Gr. I in different disciplines. What was the recruitment rules for promotion in those discipline also is not evident from any material on record.

In view of the facts and circumstances, the R.A. 115/94 is allowed and the judgement delivered earlier in O.A. No. 1782/88 dated 6.12.1993 is reviewed but finally the original application is dismissed as devoid of merits leaving the parties to bear their own costs. A copy of the judgement will be placed in the original file.

P. J. Thiruvenkam
(P.T. THIRUVENGDAM)

MEMBER (A)

J. P. Sharma
(J.P. SHARMA)

MEMBER (J)

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