

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1146/90

New Delhi this the 5th day of August, 1994.

CORAM :

THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

THE HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

S. N. Mishra S/O Late H. K. Mishra,
working as Chief Cameraman,
Films Division, Tolstoy Marg,
New Delhi.

... Applicant

None for the Applicant

Versus

1. Union of India through
Secretary, Ministry of
Information & Broadcasting,
Shastri Bhawan, New Delhi.

2. Chief Producer,
Films Division,
24, Peddar Road,
Bombay.

... Respondents

By Advocate Mrs. Rajkumar Chopra

O R D E R (ORAL)

Shri S. R. Adige, Member (A) -

In this application, Shri S. N. Mishra, Chief Cameraman, Films Division, New Delhi, has prayed firstly that his seniority as Cameraman be restored w.e.f. 8.3.1982, and, secondly his reversion from the post of Newsreel Officer to that of Cameraman which was made effective from 27.3.1989 be quashed and it be held that he occupied the post of Newsreel Officer on regular basis till he was regularly promoted as Chief Cameraman w.e.f. 29.12.1989.

2. This case is an old one, which was instituted as far back as May, 1990. None appeared for the applicant even on the second call, although it was listed at Sl. No. 5 amongst the first ten cases posted peremptorily for final hearing today. Mrs. Rajkumari Chopra, however, appeared for the respondents. We, therefore, thought it fit to dispose of this application after hearing the learned counsel for the respondents and perusing the material on record.

3. It appears that the applicant was appointed to officiate as Assistant Cameraman in the Films Division of the Min. of I & B ^{pm} 30.4.1973 (Ann. A-2). According to the R.R.s as they then stood, 100% of the posts of Assistant Newsreel Officers (ANROs) were to be filled by promotion from amongst Asstt. Cameraman with three years' regular service in the grade and the applicant was promoted as ANRO on 21.5.1979 and was posted to Calcutta, but as he represented that he was unable to proceed there owing to family difficulties, another posting had to be found for him, and eventually he was posted to Bhubaneswar where he joined on 28.6.1980. From ANRO the next rung of promotion ^{to} was that of Cameraman. 50% of the posts of Cameraman were to be filled by direct recruitment and remaining 50% by promotion from amongst ANROs with three years' regular service, or Asstt. Cameraman with five years' regular service. While working as ANRC at Bhubaneswar the applicant was appointed as Cameraman at Calcutta on 26.11.1981 purely on ad hoc basis pending filling up the vacancy by direct recruitment through UPSC

and he joined there on 8.3.1982, after completing his assignment in Bhubaneswar and availing of leaving and joining time. Subsequently the applicant himself applied for the post of Cameraman to be filled through direct recruitment by UPSC and was selected for regular appointment by UPSC on 14.7.1982, and joined on 5.2.1983 after completing ^{an} ~~of~~ medical examination and other requirements. In so far as the question of reckoning the applicant's seniority as Cameraman from the date of his ad hoc appointment on 8.3.1982 is concerned, there ^{is} a ~~is~~ catena of recent GAT and Supreme Court judgments, which have been discussed in detail in the judgment of this Bench of the Tribunal in O.A. No. 727/87 - I. K. Sukhija & Anr. vs. Union of India & Ors. and connected cases, in which the law has been settled that ad hoc service followed by regularisation can be counted towards seniority only if the ad hoc appointment is fully in accordance with rules, and if it is de hors the rules, where the service is for 15-20 years. As in this case, the post of Cameraman was to be filled by direct recruitment through UPSC, the ad hoc appointment of the applicant w.e.f. 8.3.1982 pending direct recruitment through UPSC was clearly not in accordance with the rules and furthermore, the period of ad hoc service is less than even one year, let alone 15-20 years. Hence, the first prayer fails.

4. Coming to the second prayer; from cameraman the next rung of promotion is that of NRO as well as to that of Chief Cameraman and Cameraman (CFU). 75% of

the posts of NROs are to be filled by direct recruitment and 25% by promotion from amongst ARROs with four years' regular service, or Cameraman with two years' regular service. For Cameraman (CFU) the vacancies were to be filled 100% by promotion from amongst Cameraman with three years' regular service, while for Chief Cameraman also 100% were to be filled by promotion from amongst Cameraman with three years' regular service. According to the respondents, the applicant while working as regular Cameraman was appointed as NRO purely on ad hoc basis vide order dated 7.2.1986 against a post which was to be filled by direct recruitment through UPSC. While making the appointment, it was made clear that it did not confer any right on him for regular appointment to the post. Owing to the ban on direct recruitment, the appointment could not be made on regular basis for some time. After the ban was lifted in January, 1988, the vacancy against which the applicant was working along with two other vacancies which fell in the direct recruitment quota, were notified to UPSC. The respondents state that the UPSC returned the requisition stating that the R.R.s should be revised as per DPAR's guidelines and it should be re-submitted thereafter. The R.R.s were revised in June, 1989. Meanwhile, in the light of DPAR's O.M. dated 30.3.1988, to review all ad hoc appointments and discontinue those extended beyond one year from the date of that O.M., the applicant's ad hoc appointment was reviewed and he was reverted w.e.f. 27.3.1989. Eventually, however,

he was promoted as Chief Cameraman w.e.f. 21.12.1989. The applicant had challenged his reversion as Cameraman w.e.f. 27.3.1989 as well as his non-promotion as Chief Cameraman from earlier date vide O.A. No. 326/89 before the Tribunal (Calcutta Bench) who by their order dated 3.5.1989 dismissed the application at the admission stage itself. Under the circumstances, the second prayer also fails.

5. This application is, therefore, dismissed. No costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)

S. R. Adige
(S. R. Adige)
Member (A)

/as/