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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1198/90

New Delhi, 30th September, 1994

THE HON'BLE MR. S. R. ADIGE, MEMBER (A)
THE HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri V. K. Mittal S/O Shri P. C. Mittal,
Working as Ist P.A. to General Manager,
Delhi Milk Scheme, West Patel Nagar,
New Delhi - 110008, and
R/O House No. 331/C-2,
Gali No.2, Rajgarh Colony,
Delhi - 110051.

... Applicant

By Advocate Shri R. L. Dhawan

Versus

1. Union of India through
Secretary, Ministry of
Agriculture, Deptt. of
Agriculture & Co-operation,
Krishi Bhawan,
New Delhi.

2. The General Manager,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi - 110008.

... Respondents

By Advocate Shri V. S. R. Krishna

ORDER

Shri S. R. Adige, Member (A) —

In this application Shri V. K. Mittal, Ist P.A. to the General Manager, Delhi Milk Scheme, has prayed for promotion to the said post w.e.f. 31.12.1981, with all consequential benefits.

2. From the materials on record it appears that there is only one post of Ist P.A. to General Manager, which was held by the regular incumbent, Shri Sushil Kumar. It further appears that the applicant was promoted as Ist P.A. to G.M. in three spells. The first spell was from 3.12.1979 to 31.12.1979, when the regular

incumbent Shri Sushil Kumar had proceeded on leave. The second spell was from 28.2.1980 to 21.12.1981 when the said Shri Sushil Kumar had temporarily been promoted as Research Assistant, and the third spell was from 9.11.1981 to 24.3.1985, when Shri Sushil Kumar had proceeded to the Delhi Municipal Corporation on deputation. These promotions given to the applicant were purely ad hoc in nature, made as a stop-gap-arrangement and in the administrative interest, which did not give the applicant any right to the said post. It is no doubt true that the office orders dated 19.3.1980 (Annexure-4), 12.11.1982 (Annex.-5), and 20.2.1985 (Annex.-6) filed by the applicant refer to his promotion as being made on regular basis or officiating basis and speak of him being on probation, but this position does not square with the applicant's own averment contained in his letter dated 13.3.1990, in which he admits that he worked as Ist P.A. to G.M. only for those three spells, which means that he was reverted to his parent post when Shri Sushil Kumar, the regular incumbent returned. In that letter mention is also made of the fact that Shri Sushil Kumar vacated the post of Ist P.A. to G.M. only on 1.3.1989. Thus, from the applicant's own admission, the conclusion is irresistible that the applicant was promoted as Ist P.A. to G.M., during the absences of the regular incumbent Shri Sushil Kumar, on purely ad hoc basis as a temporary arrangement and when the regular incumbent returned, the applicant was reverted to his parent post.

3. Although by office order dated 10.3.1989 (Annex.-7) Shri Sushil Kumar has been treated as promoted to the

post of Assistant Administrative Officer notionally w.e.f. 31.12.1981, by the applicant's own admission as contained in his letter dated 13.3.1990, Shri Sushil Kumar vacated the post of Ist P.A. to G.M. only on 1.3.1989, and by office order dated 11.5.1990 (Annex.13) the applicant was promoted as Ist P.A. to G.M. w.e.f. that date.

4. From the reply filed by the respondents, it further appears that the applicant's prayer for promotion to the post of Ist P.A. to G.M. w.e.f. 31.12.1981 was considered by the review DPC, but he was recommended for promotion to the said post only w.e.f. 1.3.1989, that is from the date on which that post was actually vacated by Shri Sushil Kumar. The respondents have further pointed out that Shri Sushil Kumar was given promotion w.e.f. 31.12.1981 only on notional basis without payment of any arrears of pay and allowances for the period 31.12.1981 to 28.2.1989 and as such the vacancy actually became available only w.e.f. 1.3.1989. Merely because Shri Sushil Kumar was given notional promotion w.e.f. 31.12.1981, does not give the applicant an enforceable right to claim notional promotion in the post occupied by Shri Sushil Kumar from that date. It is not the applicant's case that Shri Sushil Kumar is junior to him, and hence, he cannot claim that the action taken by the respondents is violative of Articles 14 and 16 of the Constitution.

5. Under the circumstances, the prayer for promotion as Ist P.A. to the General Manager, Delhi Milk Scheme

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w.e.f. 31.12.1981 cannot be acceded to. This application fails and is accordingly dismissed.
No costs.

Lakshmi Swaminathan
(Mrs. Lakshmi Swaminathan)
Member (J)

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

/as/