

D.A. 1890/90

27th

New Delhi this is the 8th of January, 1995.

Coram:

Hon'ble Shri S.R. Adige, Member(A)

Hon'ble Smt. Laxmi Swaminathan, Member(J).

K.L. Vig

S/o Sh.Jai Gopal Vig,

R/o A-25 Aram Bagh,

New Delhi-55.

..... Applicant.

(By Advocate Sh. R.D.Nadar)

Versus

1. Chief Secretary,
Delhi Administration Delhi
5, Alipur Road, (Shyam Nath Marg)
Delhi.

2. Union of India,
through Under Secretary(Estt.
D.S. Section) Deptt. of Personal,
North Block,
New Delhi.

..... Respondents.

(By Advocate Mrs.Avnish Ahlawat).

JUDGMENT

Hon'ble Shri S.R.Adige, Member(A)

1. The applicant Shri K.L. Vig who joined service as an LDC in the Deputy Commissioner Delhi Office in 1959 was promoted as UDC w.e.f. 16.4.71. Thereafter he submitted his resignation which was accepted by the respondents on 15.9.75. Later he withdraw his resignation and upon advice of Home Ministry, vide letter dated 18.5.78 (Annexure-II) conveying Govts. approval to the withdrawal of the resignation and to treat the period of absence from 15.9.75 to the date of his joining as Dies-Non, the Dy. Commissioner Delhi by his order dated 23.8.78 (Annexure-IV) allowed the applicant to join duty and directed that the period of absence from duty from 15.9.78 to the date of joining be treated as Dies-Non for all purposes viz. increment, leave, pension, seniority etc. The applicant rejoined on 24.8.1978. His

prayer is that his seniority in the UDC list be given from 16.4.1971, i.e. the date of his promotion as UDC, with all consequential benefits while the respondents though admitting that the applicants resignation was allowed to be withdrawnⁱⁿ and it was not a case of fresh appointment, assentⁱⁿ that in terms of Home Ministry letter dated 18.5.1978 to treat the period from 15.9.75 to 24.8.78 as dies-non, the applicant can be given seniority as UDC only w.e.f. 24.8.78.

2. The effect of treating a period of Dies-Non, is to strike it off from the calendar. In other words it means to treat the applicant as not in service during that period. Thus that period will have to be deducted from the total length of service performedⁱⁿ by the applicant, and his seniority as UDC pushed back accordingly. The total period from 15.9.75 to 24.8.78 is 2 years 11 months and 9 days. Hence the seniority of the applicant as UDC will be 16.4.71 plus 2 years 11 months and 9 days, i.e. 25.3.74.

3. In the result this OA is allowed to the extent that the applicant should be placed in the UDC seniority list just below the person who was promoted as UDC on 25.3.74 and he should be granted all consequential benefits, including arrears of Pay & allowances, as well as further promotion if due, in accordance with extant rules and instructions on the subject. These directions should be implemented within 3 months from the date receipt of a copy of this judgement. No costs.

Laxmi Swaminathan
(LAXMI SWAMINATHAN)
MEMBER (J)

S.R. Adige
(S.R. ADIGE)
MEMBER (A)