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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2083/1990

New Delhi, this 13th day of February, 1995

Hon'ble Mr. Justice S.C. Mathur, Chairman
Hon'ble Mr. P.T.Thiruvengadam, Member(A)

Shri Hari Krishan
165, New Rajdhani Enclave
New Delhi .. Applicant

By Advocate Shri A.K. Pathak

versus

Union of India, through

1. Secretary
Ministry of Defence, New Delhi

2. Secretary
M/Personnel, Public Grievances & Pension
North Block, New Delhi .. Respondents

By Shri Sethuramalingam, Sr. Admn. Officer, from
the Department

ORDER

By Mr. P.T.Thiruvengadam, Member(A)

The applicant joined Air Force Headquarters Ministerial cadre as Lower Division Clerk in the year 1944 and in course of time, was posted as Assistant on 10.5.66. Subsequently on 29.7.80, he was posted as Assistant Civil Staff Officer (ACSO). He retired on 30.4.81 on reaching the age of superannuation.

2. The seniority of Assistants was under dispute for quite some time and after a series of litigation in this Tribunal, High Court and Supreme Court, final seniority list of Assistants was issued on 7.11.88. Seniority position of the applicant in this list is not contested. As per the direction in the last round of litigation, promotion made to the posts of ACSO were reviewed and revised dates of promotion ordered for the affected employees. There was ante dating of promotions in some cases, post dating of promotions in other cases and no

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change in original dates of promotion in the remaining cases. This OA has been filed claiming that the benefits of recast seniority have not been correctly extended to the applicant.

3. The learned counsel for the applicant admitted that the change in the seniority position as per the seniority list of 7.11.88 is not in dispute. The applicant had been included in the select list of 1979-80 as per the earlier seniority list and had been promoted on 29.7.80. After review, the respondents have allowed ante-dating of promotion as ACSO by just a few days and the applicant's promotion is now reckoned from 22.7.80 (Annexure F to the OA). It was argued that a number of juniors particularly Shri Jagdish Singh and H.C.B. Wadhwa have gained considerably with reference to their dates of promotion as ACSO. Their gain is of the order of some months whereas the applicant has been given the benefit of only 7 days.

4. Shri Sethuramalingam, Presenting Officer on behalf of the respondents explained the background. After the seniority list was recast in keeping with the direction of the Tribunal and other Courts, Review DFCs were held. The case of the applicant was considered not only against the year 1979-80 but even against the panel of the previous year, since he was eligible for such consideration against 1978-79 panel. However, for the year 1978-79 his grade and the seniority position were such that he could not be accommodated against the vacancies for that year. For the next year namely 1979-80 his position in the revised panel was at Sl.No.69. Earlier from this panel, promotions had taken

place in bunches on 22.7.80, 29.7.80 and 16.8.80. Accordingly the applicant was adjusted against the first batch of promotions namely on 22.7.80. As regards Shri Jagjit Singh and Shri Wadhwa, it is true that as per the original seniority list they were promoted only against 1980-81 vacancies. On the other hand, due to revised seniority list issued on 7.11.88, they were considered in the Review DPC for the year 1979-80 and were having such panel position as to get promoted on 22.7.80. In any case, these juniors have not been given promotion earlier to the applicant.

5. It was also explained that after the revised seniority list, only a relatively small number of Assistants got the benefit of ante-dating. A very large number did not get any benefit and a small number were even pushed back with regard to their promotion.

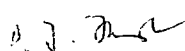
6. The applicant has not been able to advance any argument as to how he should have been given the benefit of promotion as ACSO a date earlier to 22.7.80. It was only stated that there were vacancies even prior to 22.7.80 and the applicant should have been considered for posting as ACSO accordingly. We do not see any merit in this argument since the first promotion made from 1979-80 select list could not have been made prior to the finalisation of the select list based on the original seniority. The select has been attached as Annexure A. As approved by the Government of India for promotion as ACSO, this select list is dated 22.7.80. Hence, irrespective of the availability of the vacancies, no promotion could have been made prior to this date. Action of the respondents in ante dating the

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promotion of the applicant from 22.7.80 based on his inclusion in the 1979-80 select list (revised DPC) can not be faulted.

7. Before closing, we considered the oral prayer made by the counsel for the applicant that even the consequential benefits flowing out of ante-dating of the promotion of the applicant to 22.7.80 have not been extended and hence a direction may be issued in this regard. The respondents could not confirm whether the consequential benefits have been extended or not. Hence, the only direction that is given in this DA is that the respondents should extend the consequential benefits as a result of the ante-dating of the promotion of the applicant to 22.7.80 as ASCO if not already done. Since the applicant has already retired, the consequential benefits in terms of money should be worked out and paid to the applicant within a period of 3 months from the date of receipt of this order. However, if the due benefits have already been extended, the applicant should be suitably advised within the above period.

8. The DA is disposed off with the above direction. There shall be no order as to costs.



(P. T. Thiruvengadam)
Member (A)

/tvgs



(S. C. Nathur)
Chairman