

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2309 of 1990

Dated New Delhi, this 17th day of February, 1995

Hon'ble Shri J. P. Sharma, Member (J)
Hon'ble Shri B. K. Singh, Member (A)

Shri S. C. H. Asnani
S/o Shri H. T. Asnani
R/o J-12/16, Rajouri Garden
NEW DELHI-27

... Applicant

By Advocate: Shri D. R. Gupta

Versus

Union of India
through

1. Secretary
Department of Supplies
Nirman Bhawan
New Delhi-110 011

2. The Director General of Supplies and Disposals
Jeevan Tara Building
Parliament Street
NEW DELHI-110 001

... Respondents

By Advocate: Shri N. S. Mehta

JUDGEMENT

Shri B. K. Singh, M(A)

This application seeks writ of mandamus to promote the applicant to the post of Deputy Director from the date his juniors were promoted to that post i.e. from 4.4.1984 along with consequential benefits including seniority in the light of the C.A.T. decision dated 19.4.1988 in OA.No.696/87 pronounced by a Bench of this Tribunal comprising Hon'ble Shri P. K. Kartha, Vice Chairman (Judicial) and Hon'ble Shri S. P. Mukherjee, Administrative Member. This judgement is at Annexure A-1 and the order sought to be implemented is at page-29.

2. The facts of the case are that the applicant was recruited and appointed to the post of Assistant Director(Grade-I), Grade-III of the Indian Supply Services, Class-I on the basis of the selection in Engineering Services Examination,1975 on recommendations of Union Public Service Commission as a direct recruit. He successfully completed his probation period and was confirmed against the permanent post. As per Recruitment Rules, the promotion from Assistant Director (Grade-III) of the Indian Supply Service to Deputy Director(Grade-II) of the Indian Supply Service is considered in the order of seniority irrespective of the period of service in that Grade but the actual promotion of an officer approved for promotion is made only after he completes four years' service in Grade-III of Indian Supply service and that on such promotion he is assigned the same seniority in Grade-II of Indian Supply Service as was allotted to him by the D.P.C. in the panel of approved officers irrespective of the actual date of his promotion.

3. It is admitted by the applicant that his seniority in the grade of Assistant Director, Grade-III of Indian Supply Service for 1979 has since been rectified in compliance with the decision of the C.A.T. in OA.No.696/87. The applicant has sought intervention of the Hon'ble Tribunal to direct the respondents to consider the promotion of the applicant on the basis of revised seniority.

4. The applicant has prayed for the relief that he should be promoted to the post of Deputy Director i.e. with effect from 4.4.1984 with all consequential benefits.

5. A notice was issued to the respondents who filed their reply contesting the application and grant of relief prayed for.

6. We heard the learned counsel Shri D. R. Gupta for the applicant and Shri N. S. Mehta for the respondents and perused the record of the case.

7. The applicant had filed OA.No.250/90 on 7.2.90 and the judgement in that case was delivered on 15.1.91. A perusal of the judgment would clearly indicate that the relief prayed for in that OA was the same as is being prayed in the present OA. This is reproduced below:

"It is prayed that this Hon'ble Tribunal may kindly be pleased to command the respondents, their officials and agents to give all the benefits to the applicant as if he was not reverted from the post of Deputy Director Grade-II of Indian Supplies Service along with future benefits."

The parties to the suit are also the same i.e. the present applicant as applicant and UOI & Ors as respondents. Since the res has already been thoroughly adjudicated upon by a Bench comprising Hon'ble Shri B. S. Sekhon, Vice Chairman(J) and Hon'ble Shri P. C. Jain, Member(A) on 15.1.91, the same matter cannot be agitated again. The

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parties are the same and the issues are also same. The various submissions were rejected because they came in the category of multiple reliefs sought in a single application and as such these were hit by Rule 10 of the CAT(Procedure)Rules,1987. The applicant was given liberty to file a separate application in accordance wtih law, if so advised. It would be seen that in paragrpaah-8 of OA.2309/90 the relief is the same i.e.:

"Hon'ble Tribunal may kindly be pleased to direct the Respondent to promote the applicant from the date his juniors have been promoted to the post of Deputy Director i.e. with effect from 4-4-1984 with consequential benefits."

In OA.250/90 also the relief prayed for is the same but is couched in a different language. It says:

"Hon'ble Tribunal may kindly be pleased to command the respondents, their officials and agents to give all the benefits to the applicant as if he was not reverted from the post of Deputy Director Grade II of Indian Supplies Service along wtih future benefits."

The implication is clear that he should be deemed to have been promoted from the date his juniors were promoted i.e. with effect from 4.4.1984. This prayer according to the judgement in OA.250/90 was hit by limitation and in the concluding paragraph, the Hon'ble Tribunal referred to this specific relief which is only differently worded in the two OAs i.e. OA. No.250/90 and OA. No.2309/90, but the substance remains the same and thus this having been rejected

on grounds of limitation, cannot be heard again. Thus, it is barred by principles of res-judicata and also hit by limitation and accordingly, this OA is dismissed on ground of limitation and also on ground of principles of res-judicata, with no order as to costs.


(B. K. Singh)
Member(A)


(J. P. Sharma)
Member(J)

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