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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A. No. 513 of 1990  
M.P. No. 3399 of 1992

This 29th day of July, 1994

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

Kartik Chandra Pal  
Quarter No.2126,  
Lodi Road Complex,  
New Delhi - 110003 .....

Applicant

Through Advocate: Shri B.S. Maini  
VERSUS

1. The Union of India, through:  
The Secretary,  
Ministry of Science & Technology,  
(Department of Science & Technology)  
New Mehrauli Road  
New Delhi-110016
2. The Director General of Meteorology,  
India Meteorological Department,  
Mausam Bhavan,  
Lodi Road,  
New Delhi - 1100 03 .....

Respondents

Through Advocate: Shri V.S.R. Krishna

O R D E R

(Hon'ble Shri B.K. Singh, M(A)

This OA No.513/90 has been filed against the impugned OMs (i) No.E(2) 124/01 dated 6.12.1988 rejecting representation of the applicant for fixation of seniority in the post of LDC w.e.f. 17.3.1966; and (ii) No.E(2)/124/23 dated 4.4.1989 rejecting the appeal of the applicant for fixation of seniority in the post of LDC w.e.f. 17.3.1966.

2. The uncontroverted facts of the case are these. The applicant was initially appointed as Assistant Teacher on 2.9.1963 in Dandakaranya Project, an organisation working under the Department of Rehabilitation, Ministry of Home Affairs. He was appointed as Assistant Store Keeper in the scale of Rs.110-180 in the same project and continued to work there till 15.3.1988. He was declared permanent as Assistant Store Keeper vide annexure A-1 of

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the paper book. As a result of winding up of the Dandakaranya Project the applicant was declared surplus w.e.f. 1.10.1987. Consequently he was placed in the Surplus Cell under the Ministry of Personnel & Training for re-deployment. He was redeployed as LDC in the scale of 950-1500 (revised) in the office of the Director General of Meteorology on 27.3.1988. His claim is that having been transferred in public interest after winding up of the Dandakaranya Project and appointed as LDC in the Department of Meteorology, he is entitled to count to his 22 years of past service for the purpose of his promotion to UDC. He made a representation to respondent No.2 to fix his seniority taking his entire length of service (annexure A-2). On that basis he also claimed promotion to the post of UDC (annexure A-3). The representation was rejected vide the impugned O.M. dated 6.12.1988 (annexure A-4). His further application dated 8.2.1989 (annexure A-5) for computing his past service in the grade of LDC, made to the respondent No.1, was rejected by the respondent No.2 vide O.M. dated 4.4.1989 (annexure A-6). His prayers were rejected in the light of the Department of Personnel's O.Ms. dated 25.2.1966 and 16.2.1969. The provisions contained in these Memos are as follows:

"The staff redeployed through Surplus Cell is not entitled to the benefit of past service for the purpose of seniority in the new organisation".

Aggrieved by this decision of the respondent No.2 the applicant has preferred this application for quashing the impugned Memos. dated 6.12.1988 and 4.4.1989.

3. The principal relief prayed for by the applicant is that the impugned memoranda be quashed with the directions to the respondents to promote the applicant to the post of UDC w.e.f. 28.3.1988 computing his past service in the equivalent grade of LDC, and give him all consequential benefits.

4. A notice was issued to the respondents who have contested the application and grant of reliefs prayed for.

5. Heard the learned counsel, Shri B.S. Maine for the applicant and Shri V.S.R. Krishna for the respondents and perused the record of the case.

6. The learned counsel for the applicant argued that the applicant was already serving as Assistant Store Keeper w.e.f. 17.3.1966 with the Union of India under the Ministry of Home Affairs and on being declared surplus he was transferred to the Surplus Cell under the Ministry of Personnel & Training for redeployment. He was redeployed in the Department of Meteorology under the Ministry of Science & Technology, Government of India. The eligibility criterion for promotion to the post of UDC is on the basis of (i) seniority-cum-fitness (ii) 8 years regular service in the grade of LDC/Lab Assistant/Observer; (iii) 5 years regular service in the grade of LDC/Lab Assistant/Observer.

7. We have carefully gone through the various instructions contained in the Central Civil Services amended upto (Redeployment of Surplus Staff) Rules, 1990. It has been clearly stated that barring those Departments/Ministries where specific rules of seniority have been prescribed in consultation with Department of Personnel & Administrative Reforms in respect of a particular service/post, seniority/ for the purpose of promotion shall be determined in accordance with the general principles of seniority laid down in the O.M. of Ministry of Home Affairs dated 25.2.66 and 6.2.1969..

8. 'Redeployment' has been defined as the appointment of surplus employee against a vacancy in a Central Civil Service post in accordance with these rules. 'Surplus Staff' means, one who has been rendered surplus from Ministries, Departments, offices of the Govt. of India as a result of : (i) administrative and financial reforms including restructuring of an organisation; (ii) reduction in the strength of a particular unit of the Ministry as per recommendations of the Staff Inspection Unit (SIU) of the Ministry of Finance; (iii) abolition or winding up of an organisation of the Central Government. The applicant falls in the third category, since Dandakaranya Project was wound up as a result of which he was declared surplus.

9. The procedure of redeployment of surplus staff stipulates that they will be adjusted only if found suitable by the Commission or other prescribed authority. The Cell may recommend more than one surplus employee on its rolls for being considered for appointment to a post for which each of them seems to it to be *prima facie* suitable for appointment. The Commission may consider any surplus employee whose biodata has been referred to by the Cell for appointment to a post, even if he has not been specifically recommended by the Cell for that post, provided: (a) the post in question carries the same scale of pay or has the same maximum of the pay scale as the one held by him; (b) the surplus employee is found suitable for appointment to such post in preference to the other posts for which his candidature may have been sponsored by the Cell; and (c) he does not suffer from any of the disabilities mentioned in clause (v) of this sub-rule.

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The Commission has been vested with the power to relax educational qualifications, experience, etc. prescribed for recruitment to a service or post. The surplus staff against group 'C' and 'D' posts will not be subjected to any test or interview for purpose of appointment.

10. The appointing authority of the recipient organisation shall make an offer of appointment on the terms and conditions regulating redeployment of the surplus staff.

11. Determination of placement has been given in Rule 5 of the said rules. Sub-rule (4)(a) lays down as follows:

"The surplus employee shall have no claim to count his past service, including that rendered in the post of his provisional redeployment, towards fixation of seniority in the post in which he is readjusted."

Appointment of an employee as per sub-rule (5) of Rule 6 of the said rules states as follows:

"The appointment of an employee by way of readjustment in terms of these rules shall be treated as appointment by transfer in public interest for the purposes of grant of Transfer TA, joining time and joining time pay."

These rules also hold good for a surplus employee redeployed in any other organisation under another Ministry. Appendix attached with the Rules is the form of option for readjustment.

12. In Rule 11 of the said rules the policy of 1966 and 1969 has been reiterated. It says that: "the past service rendered prior to redeployment should not count towards seniority, in the new organisation/new post which a surplus employee joins after he is redeployed. The same will also have to be applied in the case of those readjusted after redeployment."

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13. The aforesaid rules hold good even today. These rules have been framed under the proviso to Article 309 of the Constitution and they have a statutory force. It is only on account of this that the applicant has not been allowed to count his past service for purpose of seniority in the Department of Meteorology, Ministry of Science & Technology and he was declared ineligible since he did not complete five years regular service in the grade of LDC in his new job and as such he could not be considered eligible for promotion to the post of UDC.

14. In the light of the statutory rules, various rulings cited by the learned counsel for the applicant are of no avail. It is true that the surplus employee who is redeployed in another organisation is permitted to count his length of service for purposes of GPF, pension and gratuity and he is also permitted to avail of joining time and gets normal Transfer TA/DA like other employees from the organisation which is wound up to join the Surplus Cell and also from Surplus Cell to the organisation <sup>from</sup> where he joins his new post. The transfer of surplus employee, from the old office to the new one, undoubtedly, is treated in public interest and therefore he is given the benefit of joining time, joining pay and Transfer TA/DA. But he is not entitled to count his past service for the purpose of seniority and promotion in the new cadre. In the Meteorological Department, every LDC who joined earlier than the applicant would rank senior to him and he would be placed at the bottom of the seniority list being treated as a fresh entrant on the basis of recruitment rules. The recruitment rules lay down that promotion to the post of UDC would be on the basis of (i) 50% by SCF

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from the cadre of LDC (including erstwhile Observer, Lab. Asstt. appointed in the initial constitution with 8 years of regular service; (ii) 25% by direct recruitment and (iii) 25% by limited departmental competitive examination. A copy of the recruitment rules for promotion from various sources to the rank of UDC is enclosed as annexure 'A' with the paper-book.

15. In the light of what has been stated above, it is difficult to accept the contention of the learned counsel for the applicant that the applicant's past service should be counted for the purpose of seniority and promotion. In the conspectus of all the facts and circumstances, we find that there is no merit in the application and accordingly the same is dismissed but without any order as to costs.

( B.K. Singh )  
Member (A)  
29.7.96

J.P. Sharma  
(Member (J))

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