

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL *S*
N E W D E L H I

O.A. No. 980/90
T.A. No.

199

DATE OF DECISION 30.8.1991

<u>Shri G. S. Chaman</u>	Petitioner Applicant
<u>Shri S.L. Lakhpal</u>	Advocate for the Petitioner(s) Applicant
<u>Union of India & Others</u> Versus	Respondent
<u>Smt. Raj Kumari Chopra</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P. K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D. K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? */ No*
4. Whether it needs to be circulated to other Benches of the Tribunal? */ No*

(Judgement of the Bench delivered by Hon'ble
 Mr. P. K. Kartha, Vice-Chairman)

The applicant, who is working as Assistant Director in the Intelligence Bureau under the Ministry of Home Affairs, has claimed in this application filed under Section 19 of the Administrative Tribunals Act, 1985, that his seniority in the post of Assistant Director should be revised after counting his ad hoc service in the said grade. He has further prayed that he be given all consequential benefits.

2. The applicant was promoted as Assistant Director (Non-Police) from the post of Section Officer on an ad hoc

basis and he continued as such from 12.5.1983 to 22.6.84.

3. The order dated 11.5.1983, whereby the applicant was initially promoted on ad hoc basis along with others, stated that it was pending the finalisation of the revised seniority list of Section Officers issued on 29.10.1982 and availability of a regular D.P.C. panel. The ad hoc promotion was made in the order of seniority on the basis of the then existing unrevised seniority list of Section Officers. It was further stipulated that the promotion was purely ad hoc and temporary and was liable to be terminated after six months or as soon as the draft revised seniority list of Section Officers was finalised in the light of the directions that may be given by the Delhi High Court and a regular panel becomes available, whichever was earlier. It was also stipulated that the ad hoc promotion was further subject to the result of the Special Leave Petition then pending before the Supreme Court in respect of the seniority of Assistants.

4. The ad hoc promotion of the applicant along with others was extended for a further period of six months w.e.f. 11.11.1983 by notification dated 2.12.1983.

5. On 23.6.1984, the respondents issued an order stating that on the recommendation of the U.P.S.C., the persons mentioned in the order, including the applicant, are promoted as Assistant Director (Non-Police) on regular basis.

It was also added that on promotion, the inter se seniority of the officers in the grade of Assistant Director will be in the same order as approved by the D.P.C.

6. The Supreme Court gave its judgement dated 30.9.86 in Civil Appeals No. 2925 and 2926/81. Consequently, seniority lists of Assistants and Section Officers were revised in the light of the judgement of the Supreme Court and notional promotion was given to some persons who had been promoted as Assistant Director (Non-Police). Consequent upon such revision of such seniority lists, the respondents issued notification on 17.2.1988, according to which, it was indicated that the date of regularisation of the promotion of the applicant as Assistant Director (Non-Police), is 23.6.1984. It will be noticed that the respondents had issued an order on 23.6.1984 promoting the applicant as Assistant Director (Non-Police) on regular basis.

7. The applicant is relying upon the various judgements of the Supreme Court, according to which, the subsequent approval of regularisation of his services by the competent authority will relate back to the date on which the first appointment was made. He is thus claiming refixation of his seniority after counting the period of his ad hoc service from 12.5.1983 to 22.6.1984.

8. The respondents have stated in their counter-affidavit that the seniority of the applicant will be

Or

reckoned only from the date of holding a regular D.P.C. by the U.P.S.C. on seniority-cum-merit. The ad hoc promotions were made on the basis of seniority alone. The ad hoc promotions were also subject to the final decision of the Delhi High Court and of the Supreme Court in the pending litigation.

9. We have carefully gone through the records of the case and have considered the rival contentions. The applicant has relied upon numerous rulings* which have duly been considered by us. In the case of Direct Recruit Class II Engineering Officers Association Vs. State of Maharashtra, 1990 (2) S.C.C. 715 at 745, a Constitution Bench of the Supreme Court has observed that "where the initial appointment is only ad hoc and not according to rules and made as a stopgap arrangement, the officiation in such post cannot be taken into account for considering the seniority". In our opinion, the ad hoc service of the applicant from 12.5.1983 to 22.6.1984 was not according to rules and was in the nature of a stopgap arrangement. In view of this, we are of the opinion that the officiation of the applicant in the post of Assistant Director on ad hoc

*Rulings relied upon by the applicant:

1984 (4) S.C.C. 329; A.I.R. 1986 S.C. 638; A.T.R. 1987(1) C.A.T. 107; A.T.R. 1987 (2) C.A.T. 221; A.T.R. 1986 (2) C.A.T. 270; A.T.R. 1987 (1) 458; A.T.R. 1986 (2) C.A.T. 346; A.T.R. 1987 (2) C.A.T. 223; A.T.R. 1988 (1) C.A.T. 381; A.T.R. 1988 (1) C.A.T. 107.

✓

