

(28)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 1584/1991

New Delhi, this 14th day of October, 1997

Hon'ble Mrs. Lakshmi Swaminathan, Member (J)  
Hon'ble Shri S.P. Biswas, Member (A)

Shri Tika Ram  
A-11/38, Sector 18, Rohini,  
Delhi-85 .. Applicant

(By Shri G.D.Gupta, Advocate)

versus

Union of India, through

1. Secretary  
Dept. of Official Languages  
North Block, New Delhi
2. Director  
Central Translation Bureau  
CGO Complex, New Delhi
3. Shri Hari Krishan Sharma  
Admn. Officer, Central Translation Bureau  
CGO Complex, New Delhi .. Respondents

(By Mrs. C.M. Chopra, Advocate)

O R D E R

Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

The applicant is aggrieved by the impugned order dated 8.2.91, by which the respondents have rejected the claim of the applicant. This order has been passed in pursuance of his earlier Original Application No. 1358/89, which had been disposed on 5.12.90 directing the respondents to dispose of the representation of the applicant dated 20.8.88 and communicate the decision of the same to the applicant.

2. The brief facts of the case are that the applicant who joined as LDC on 18.9.53 in the Central Tractor Organisation, Ministry of Food & Agriculture,

was transferred to the Central Hindi Directorate (CHD for short) on 1.9.60 and promoted as UDC on 10.4.67. According to the applicant, when the CHD was reorganised he was transferred to the Central Translation Bureau (CTB for short) as UDC with effect from 1.9.71. Learned counsel for the applicant has submitted that one Shri Bansal, who was then working as LDC while the applicant was working as UDC, was looking after the translation work in the CTB. According to the applicant, his case is covered by the decision of the Delhi High Court in CWP No.905/74 decided on 18.2.83, which was the case filed by Shri Bansal, wherein the High Court has held that the transfer of the petitioner back to CTB from CHD was on administrative grounds and the petitioner was entitled to all the consequential benefits. Learned counsel has submitted that the case of the applicant and Shri Bansal is identical as both returned to the CHD from CTB on administrative grounds and in the present case the applicant had been sent to CTB vice one Shri Godia in CHD, which was not on mutual exchange basis. He has drawn attention to respondents' notings placed on record, in which the respondents themselves have mentioned that applicant's case is identical to Bansal's case. They have stated that after the establishment of the CTB, these two employees, namely, Shri Tika Ram (applicant) and Shri Bansal, were sent to the Bureau on the same date in the same circumstances. It has also been stated that when these two employees were sent to the CHD, Shri Bansal was given old seniority in the Directorate but the applicant was deprived of this old seniority against which he had made a representation.

(30)

3. In the reply, the respondents have submitted that the applicant was not transferred to the CTB at the time of its initial constitution but was later inducted in the CTB on 1.9.71 by way of mutual transfer with Shri P.S.Godia, who had joined CTB at the time of its initial constitution. The main thrust of the stand taken by the respondents in their reply is that this being a 'mutual transfer' between the applicant and Shri Godia, the applicant cannot get the original seniority, but his seniority was determined in accordance with the rules/instructions pertaining to mutual transfer. They have, therefore, submitted that there is no basis to the applicant's contention that he was senior to Shri Bhatia who joined CTB on a date earlier than him. They have submitted that Shri Bhatia joined on 18.3.71 whereas the applicant had joined only on 1.9.71 and thus he was placed below Shri Bhatia in the order of seniority as UDC. They have relied on the letter dated 7.8.71 stating that the transfer of the applicant to the CTB was <sup>not</sup> ~~on~~ mutual basis with Shri Godia and, therefore, cannot be treated in public interest, as per the guidelines of the Govt. of India, Department of Personnel and Training.

4. The applicant had made specific assertion in the application that his case is covered by the judgement in CWP No.905/74 decided by the Delhi High Court. He has also submitted that Shri Godia got all the benefits of seniority and promotion in the Directorate on his return from CTB but he has been denied the said benefits.

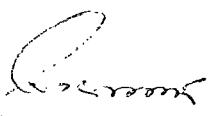
82

5. Mrs. C.M. Chopra, learned counsel for the respondents, has submitted that the respondents had examined the case of the applicant's transfer with that of Shri P.S. Godia, UDC. She has referred to the letter dated 2.2.1989 in which there is a reference that both of them had jointly signed the letter dated 5.8.1971 but later some cuttings in the signatures of the applicant were found. They have also stated that as far as giving Shri Godia the proper place in the seniority list of UDCs was concerned, he was on the strength of the Bureau only for six months as well as there was no change in the year of seniority of UDC after Shri Godia returned to the CTD. She has, therefore, submitted that as far as the applicant was concerned, it was a mutual transfer between him and Shri P.S. Godia and, therefore, he cannot get the benefits that were given to Shri Bansal. During the hearing, however, the learned counsel for the respondents was unable to categorically state as to why the respondents were unable to explain or give any reasons as to why the respondents had failed to pass an order at that time that the applicant's request for transfer to the CTB was on mutual transfer basis which they now allege. In the facts and circumstances of the case, therefore, we find that on the basis of the documents placed on record the contention of the respondents that the applicant was returned to the CTB on 1.9.1971 by way of mutual transfer is untenable and we are also satisfied that the <sup>ratio of the</sup> judgement of the Delhi High Court in CWP No. 905/74 in Bansal's case is fully applicable to the present case.

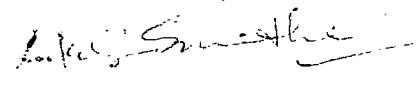
B

(32)

6. In the result, the application is allowed. The respondents are directed to give similar benefits to the applicant as has been given to Shri Bansal, including seniority as UDC in CTB. This action shall be taken within a period of three months from the date of receipt of a copy of this order. No order as to costs.

  
(S.P. Biswas)

Member (A)

  
(Smt. Lakshmi Swaminathan)

Member (J)

SRD