

17  
CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A./TxA. NO. 2369 /1991 Decided on : 15.12.95.

P.K.Gupta ... Applicant(s)

( By Shri In person. Advocate )

versus

UOI & others ... Respondent(s)

( By Shri M.K.Gupta. Advocate )

CORAM

THE HON'BLE SHRI S.R.Adige, Member(A).

THE HON'BLE ~~SHRI~~ Dr. A.Vedavalli, Member(J)

1. To be referred to the Reporter or not ? *Yes*
2. Whether to be circulated to other Benches of the Tribunal ? *No*

*[Signature]*  
( DR.A.VEDAVALLI )  
MEMBER (J)

*[Signature]*  
( S.R.ADIGE )  
MEMBER (A).

14

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

O.A.No.2369/91

New Delhi: December 15<sup>th</sup>, 1995.

HON'BLE MR. S.R.ADIGE, MEMBER(A)

HON'BLE DR. A.VEDAVALLI, MEMBER(J)

1. Shri P.K.Gupta,  
Assistant,  
Ministry of Agriculture,  
Department of Agriculture & Co-operation,  
Krishi Bhawan,  
New Delhi.

2. Shri T.D.Kumar,  
Assistant,  
Ministry of Agriculture,  
Department of Agriculture & Co-operation,  
Krishi Bhawan,  
New Delhi.

.....Applicants.  
Applicant Shri P.K.Gupta in person.  
Versus

1. Union of India,  
through Secretary,  
Ministry of Agriculture,  
Krishi Bhawan,  
New Delhi.

2. Under Secretary,  
Govt. of India,  
Ministry of Agriculture,  
Krishi Bhawan,  
New Delhi

.....Respondents.

By Advocate Shri M.K.Gupta

JUDGMENT

By Hon'ble Mr. S.R.Adige, Member (A).

In this application, Shri P.K.Gupta, Assistant,  
Ministry of Agriculture, New Delhi and one other  
have impugned the order dated 9.5.91(Annexure -V)  
and <sup>prayed</sup> for a direction to promote them in the grade  
of Assistant with effect from October, 1983, with  
all consequential benefits.

2

2. Both the applicants, who were appointed as IDCs vide order dated 22.3.57, were regularised as UDCs in October, 1978 and were confirmed as such w.e.f. 17.12.83 vide order dated 28.12.83. They were sent on deputation in Chukha Hydel Project, Bhutan on foreign service, and on completion of their deputation period, rejoined their parent department on 12.8.86 and 1.10.87 respectively. Meanwhile it appears that the respondents constituted a DPC and persons junior to the applicants were promoted as Assistants vide orders dated 23.10.83 and 24.11.84 respectively. The applicants contend that they were fully eligible in October, 1983 for promotion when their juniors were considered for promotion as Assistants and they were also under the zone of consideration but for some <sup>unexplained</sup> ~~unexplained~~ reasons they were neither notified nor were they called upon to repatriate to their parent department, if they wanted to be promoted to the post of Assistant. They state that they were kept in dark and had no knowledge of this promotion and it is only after that when they were repatriated to their parent department and they were appointed as Assistant vide orders dated 1.12.86 and 30.11.87. They state that their representation against this allegedly illegal action of the respondents had also been rejected, compelling them to come to the Tribunal.

3. The respondents in their reply have contested the QA and state that the applicants

1

16

were sent on deputation to Chukha Hydel Project, Bhutan and were repatriated to their parent department on 12.8.86 and 1.10.87 respectively. During their deputation abroad, the DP & AR fixed the zone for making temporary promotions to the post of Assistant on long term basis vide O.M. dated 29.12.83 and being then covered in the zone, the applicants were also considered for promotion as Assistants on long term basis along with other UDCs but could not be appointed as Assistants on long term basis as they were on deputation. Immediately after their repatriation to their parent department, they were promoted as Assistants on long term basis w.e.f. 12.8.86 and 1.10.87 respectively. They state that as the long term basis promotions were not deemed as regular promotions, the proforma promotions while on deputation was not permissible as per DP & AR's advice.

4. We have heard applicant Shri P.K.Gupta in person and Shri M.K.Gupta for the respondents. Shri M.K.Gupta stated that the applicants based their seniority on the seniority list of 6.10.83, which itself was replaced by a subsequent seniority list dated 29.9.84. That seniority list of 29.9.84 was impugned by Shri Venkiteraman and others in T.A. 1066/85, in which the judgment was pronounced on 10.7.90, as a result of which the said seniority list was quashed and set aside and a fresh seniority list was prepared on 6.6.91. In that seniority list, the position of the applicants has been depressed to such

1

an extent that they are no longer eligible for promotion as Assistants from October, 1983 nor for consequential benefits flowing from that as claimed by them.

5. Applicant Shri P.K.Gupta, however, states that they are basing their seniority on seniority list of 6.10.83 which has not been impugned and on the basis of which their immediate juniors were given the benefit of promotion to the grade of Assistant from October, 1983 while the same was denied for their no fault, merely they were posted to Chukha Hydel Project in Bhtan.

6. Without adjudicating upon the merits of this <sup>at this stage</sup> OA, we note from the correspondence shown to us that the Respondent No.2 Ministry of Agriculture has recommended the applicants' case to the Department of Personnel who, however, did not record any specific advice in this regard because in the mean time the applicants had filed this OA and the matter was said to be subjudice. If that is the only reason, why the respondents are unable to take a final decision in the matter, we remove that impediment by disposing of this OA with a direction to the respondent No.2 (Ministry of Agriculture) to secure the advice of the Department of Personnel as quickly as possible and take a final decision in the matter most expeditiously, and preferably within four months from the date of the receipt of a copy of this judgment, because we understand <sup>that</sup> one of the applicants has

18

- 5 -

already retired and the remaining applicant  
namely Shri P.K.Gupta will also be retiring in  
the next few months.

7. This OA is disposed of accordingly.  
No costs.

*A. Veda Valli*  
( DR.A. VEDAVALLI )  
MEMBER (J)

*S. R. Adige*  
( S.R. ADIGE )  
MEMBER (A)

/ug/