

2

7

Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.1842/2004

Hon'ble Mr.Justice V.S. Aggarwal, Chairman
Hon'ble Mr.S.K. Naik, Member(A)

New Delhi, this the 20th day of January, 2005

L.C. Jindal,
S/o Shri F.C. Jindal,
R/o 4, Partap Vihar, Jail Road,
New Delhi-64

....Applicant

(By Advocate: Shri Yogesh Sharma)

Versus

Union of India through

1. The Secretary,
Department of Science & Technology,
Ministry of Science & Technology,
Technology Bhawan, New Mehrauli Road,
New Delhi-16

2. Director General of Meteorology,
India Meteorological Department,
Mausam Bhawan, Lodhi Road,
New Delhi-03

....Respondents

(By Advocate: None)

Order(Oral)

Justice V.S. Aggarwal, Chairman

There is no appearance on behalf of respondents despite repeated calls. In this backdrop, we invoke Rules 15 and 16 of C.A.T. (Procedure) Rules.

2.The applicant joined the India Meteorological Department and was promoted as Asstt. Meteorologist Grade – I in February, 1985. After 8 years of service, he was eligible to be considered for the post of

JS Aggarwal

Meteorologist Grade-I. He was promoted to the said post in February, 1998. The next promotional post available is that of Director in the said department. On the representation of the applicant, his date of promotion vide order of 30.10.2003, was changed to 1.10.96.

3. The present dispute pertains to the post of Director which is the next promotional post in the hierarchy.

4. Some of the other facts are that the applicant had superannuated on 30.9.2002. He contends that persons junior to him were promoted in May, 2002. He has been denied the said benefit and his representation even has been rejected vide order of 12.7.2004 which reads:

"Sir,

With reference to your letter dated 12.04.2004, addressed to DGM, New Delhi with endorsement to Secretary, DST, I am directed to inform you that on the basis of revised seniority list of Meteorologist Grade I issued on 16.01.2004, your case for promotion to the cadre of Director on the basis of guidelines of DOPT dated 09.11.1998 on "FCS", could not be considered by the Assessment Board convened on 23rd to 25th January, 2004 as you were not in service as on 01.01.2004. It is also brought to your notice that as per DOPT OM dated 17.07.2002, promotions under FCS are made effective from a prospective date and not from retrospective effect.

Yours sincerely,

Sd/-

(S.C. Ghosh)

Met.(Establishment)

for Director General of Meteorology"

5. The petition has been contested. In the reply filed, the respondents plead that applicant was appointed to the post of Asstt. Meteorologist on 25.8.84. He was promoted to the post of Meteorologist Grade-I on 19.2.98 and his seniority was at serial number 419. He superannuated on 30.9.2002. Respondents point out that in O.A.No.1958/2002 alongwith connected matter, directions had been given by this Tribunal. A review DPC was convened and thereafter on

18 Aug

basis of its recommendations, the date of appointment of the applicant was revised and his promotion to the post of Meteorologist Grade-I was made effective from 1.10.96.

6. On basis of the recommendations of the review Departmental Promotion Committee, it is contended that a revised seniority list of the officers was issued. The name of the applicant now figured at serial number 377. The meeting of the Screening Committee was thereafter held. The applicant could not be considered by the Screening Committee because he had already superannuated. Thus, it is claimed that no benefit can be granted to the applicant.

7. From the pleadings of the parties, the admitted facts clearly emerge. The applicant, on revision of the seniority list having been drawn, was placed at serial number 377. Certain persons who were junior to him, were already promoted as Meteorologist Grade-I before him. In pursuance of this seniority, they were also promoted as Director.

8. Once the seniority list had been revised and applicant has been made senior and his juniors have already been promoted as Director from May, 2002, the claim of the applicant that he should be considered, cannot be ignored.

9. We refer with advantage to the decision of the Supreme Court in the case of Bail Nath Sharma v. Hon'ble Rajasthan High Court at Jodhpur and another, 1998 (5) SCALE 50. The facts therein were that the Committee meeting did not take place in the High Court. Meanwhile, Shri Sharma had superannuated. His grievance was that had the meeting been held in time, he would have earned his promotion. The Supreme Court had rejected his claim primarily on the ground that while he was in service, no person junior to him had been promoted. It was held that the appellant could certainly have a grievance if

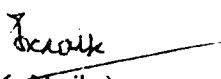
As Ag

any of his juniors had been given promotion from a date prior to his superannuation.


10. Herein the persons junior to the applicant had been promoted in May, 2002 while he superannuated on 30.9.2002. Therefore, the observations made by the Supreme Court that cause of action would arise when a junior person is promoted ignoring the claim of the senior while he was in service, will come to the rescue of the applicant.

11. At the risk of repetition, therefore, it is patent that it is a fit case where the claim of the applicant requires re-consideration because juniors to him, on re-drawing of the seniority list, had earned promotion while he superannuated on 30.9.2002.

12. Resultantly, we quash the impugned order and direct that a review Departmental Promotion Committee meeting may be held to consider the claim of the applicant afresh and his case for promotion should be considered from the date his junior had been so promoted. He may be granted the consequential benefits, if any.


(S.K. Naik)
Member(A)

/dkm/


(V.S. Aggarwal)
Chairman