

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

✓ HON. SMT. LAKSHMI SWAMINATHAN, MEMBER (J)
HON. SHRI R.K. AHOOJA, MEMBER (A)

(14)

NEW DELHI, THIS 19 DAY OF SEPTEMBER 1997

OA NO.1324/1992

1. Shri Vishwa Mittar
S/o lt. Shri Sohan Lal
R/o B-1/139 Ashok Vihar-II
Delhi-52.

2. Shri Bhagat Ram
S/o lt. Sh. Haku Ram
R/o A-236 Pandav Nagar
New Delhi-8

..APPLICANTS

(BY Advocate - Shri D.R. Gupta)

VERSUS

1. UNION OF INDIA, through
The Directorate of Printing
Nirman Bhawan
New Delhi-11

2. Manager
Government of India Press
Ring Road, Mayapuri
New Delhi.

3. Shri Parmeshwar Narain Hajela
Sr. Reader
Government of India Press
New Delhi

..RESPONDENTS

(By Advocate - Shri R.V. Sinha)

ORDER

R.K. AHOOJA, MEMBER (A)

The applicants who were employed as Readers Grade I (Senior Reader) in the Government of India Press, Mayapuri, seek the stepping up of their pay equivalent to that of their junior respondent No.3 working in the same category, after preponing the date of their promotion to the cadre of Reader. The applicants state that they were appointed as Copyholders in the Government of India

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Press, Minto Road, w.e.f. 4.4.1957 and 29.11.1958 (applicant Nos.1 and 2 respectively). Shri P.N. Hajela, respondent No.3 was also appointed as Copyholder in the Government of India Press, Faridabad, w.e.f. 16.3.1959. All the three were transferred to the Mayapuri Press in June 1970. The applicants submit that this was on the understanding that their inter se seniority on transfer will be reckoned from the date of their appointment as Copyholder in their respective Presses and for that reason respondent No.3 Shri Hajela was junior to both of them. However, Shri Hajela was given the next promotion on ad hoc basis to the post of Junior Reader and Senior Reader on 4.6.1971 and 1.12.1972 respectively ignoring the claim of the applicants who were senior to him. Later, applicants No.1 and 2 were promoted to the post of Reviser in March 1971 and June 1971 respectively and later as Junior Readers in June 1971 and December 1972. Still later, they were promoted on ad hoc basis to the post of Senior Reader in January 1977 and October 1977 respectively. The promotions to the posts of Junior Reader and Senior Reader are considered only when the officials qualify in the readership Examination held by the Department. All the three persons, viz., applicants No.1 and 2 and respondent No.3 Shri Hajela, had not qualified the examination at the time of their promotions on ad hoc basis. No combined seniority list was prepared till the year 1987, and in that seniority list the position was correctly reflected and the applicants were shown senior to respondent No.3, notwithstanding that the latter had been promoted on ad hoc basis earlier than the applicants. However, because of the earlier ad hoc promotion of respondent No.3, he has been drawing a higher pay. Since all the three

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✓ qualified in the Readers' Examination held in 1976, the applicants on seniority basis are entitled, it is claimed, to pay parity with their junior. Since this has not been done by the respondents, the applicants contend that they had been compelled to approach the Tribunal for relief.

2. The respondents deny the claims of the applicants. They state that the applicants on one hand and respondent No.3 on the other were appointed initially in separate Government Presses. The inter se seniorities are separately kept for each Press which is treated as a separate unit. Shri Hajela, respondent No.3, was promoted while working in the Faridabad Press to the post of Reviser w.e.f. 5.8.1963, while the applicants had been promoted only w.e.f. 1.3.1971 and 7.6.1971 respectively. Respondent No.3 in the mean time had even been confirmed as Reviser w.e.f. 1.7.1966. In view of this position, respondent No.3 was never junior to the petitioners as alleged. He was also transferred to the Government of India Press, Mayapuri, in the capacity of a Reviser. For further promotion, the rules provided for Limited Competitive Examination to which both, Copyholders and Revisers, with three years' service in either grade were eligible. Shri Hajela was given promotion as Junior Reader and Senior Reader much before the applicants, his ad hoc promotion as Senior Reader full four years prior to the applicants. However, in the Examination, Shri Hajela obtained a much lower position than the applicants and consequently for regular promotion to the post of Senior Reader he became junior to the applicants. In view of this position, the pay of Shri Hajela being higher even before promotion to the grade of Senior Reader, the applicants have no claim for parity in pay with him.

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3. Shri D.R. Gupta, ld. counsel for the applicants, has strenuously argued that the promotion of respondent No.3 as Reviser had no effect on the inter se seniority because both the posts of Copyholder and Reviser are feeder grades for promotion to the post of Junior Reader by means of a limited examination. The promotion of respondent No.3 as Reviser and the ad hoc promotions as Junior Reader and Senior Reader ~~which~~ was a fortuitous incident; had the competitive examination been held in time resulting in regular promotions, respondent No.3 could not have obtained the unintended benefit of higher pay vis-a-vis the applicants. In this regard, he relied on the judgement of this Tribunal in S.R. SRIVASTAVA & ORS. VS. UOI SLJ 1995(3) 326. In that case, it was held that when an anomaly is created by administrative lapse or laxity by not following the instructions strictly in letter and spirit, an ad hoc promotion does not remain ad hoc when it is continued for years by not convening the DPC and by not effecting promotion of eligible persons. Therefore, the benefit to the seniors cannot be denied even if such unintended benefit results in financial loss. The Tribunal accordingly allowed the stepping up of the pay of the seniors at par with the pay of the juniors who had been drawing ^{higher} ~~lower~~ pay on account of ad hoc promotion. He also cited the case of UOI VS. P. JAGDISH & ORS. SLJ 1997 (2) SC 136 wherein the pay of the seniors was ordered to be fixed taking into account the special pay accorded to the juniors as Senior Clerks.

4. We have perused the above cited orders of the Supreme Court as well as this Tribunal. In our view, the

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✓ whole issue hinges on the question of inter se seniority between the applicants and respondent No.3 since the benefit of stepping up can accrue only if the applicants are deemed to be senior to respondent No.3 in the lower grades. Considered from this angle, we are unable to find ~~very~~ ^a ~~correct~~ ^{much} merit in the case of the applicants. It is true that respondent No.3 joined as a Copyholder in the Faridabad Press later than the date on which the two applicants joined initially as Copyholders in the Minto Road Press. The respondents say that the seniority units of each of the Presses were different. This would indeed appear to be the case since the respondent No.3 came to be promoted as a Reviser more than 7 years prior to the promotion to that rank of the applicants. What is more, when all the three of them were transferred to Mayapuri Press, the applicants joined there as Copyholders while respondent No.3 retained his rank of Reviser. It was on the basis of this difference in grades that Shri Hajela was given preference for ad hoc promotion as Junior Reader and later as Senior reader. These advancements of Shri Hajela also took place four years earlier to those of the applicants. Clearly, therefore, the earlier promotion of Shri Hajela to the grade of Reviser established him as a senior of the applicants when all three of them came to a common seniority unit in the Mayapuri Press. The ld. counsel for the applicants tried to make out a case before us that the applicants have been agitating against the injustice meted out to them and ultimately the departmental Head of Office considered that the preferential treatment given to respondent No.3 was not right by putting the correct position in the seniority list published in 1987. The change in the inter se seniority as exhibited in this seniority list

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▼ would however appear to be the outcome of the relative performace of the applicants as well as respondent No.3 in the limited Examination. The applicants acquired a higher position in the said merit list not because they were ab initio senior but because they did better than the respondent No.3 in the examination and acquired a higher position therein. We are also not convinced by the arguments of the ld. counsel that since Copyholders as well as Revisers are both equally eligible to take the limited Departmental Examination for promotion to Junior and Senior Reader posts, the earlier promotion to the post of Reviser of respondent No.3 does not imply that he had overtaken the applicants even though he had been appointed as Copyholder at a later date. So long as the post of Copy Holder is in the line of promotion for the post of Reviser, those promoted as Revisers earlier would rank senior to those who came later to that grade.

6. Since the applicants by reason of their having a late promotion to the rank of Reviser became junior to respondent No.3 and since this resulted in earlier ad hoc promotions of respondent No.3 as Junior and Senior Reader, we find that the promotion of respondent No.3, and consequently his higher pay, cannot be regarded as fortuitous. Hence, the applicants cannot claim the benefit of stepping up of their pay vis-a-vis and in relation to respondent No.3. In this view of the matter, the citations relied upon by the ld. counsel for the applicant would also be of no avail to their cause.

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In the light of the above discussion and in the light of the facts and circumstances of the case, the O.A. is dismissed. No costs.

R.K. Ahooja
(R.K. AHOOGA)
MEMBER (A)

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)

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