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Central Administrative Tribunal
Principal Bench: New Delhi

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OA No.153/92

New Delhi, this the 21st day of July, ,1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Shri S. P. Biswas, Member (A)

S.P.Jain s/o Sh. M.S. Jain
r/o Flat No. 185-D, Pocket C,
Siddarth Extension, New Delhi. ...Applicant

(By Advocate: Shri G.D.Gupta)

-versus-

Union of India through

1. Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan, New Delhi.
2. Director General,
All India Radio,
Akashwani Bhawan,
New Delhi.Respondents

(By Advocate: Shri P.H.Ramchandani)

O R D E R (Oral)
[Dr. Jose P. Verghese, Vice-Chairman (J)]

1. The petitioner in this case was originally appointed as Transmission Executive on 16.8.1967 thereafter made quasi permanent w.e.f. 16.8.1970. He was promoted as Programme Executive on ad hoc basis w.e.f. 29.9.1976 by order dated 5.11.1976, thereafter was regularised w.e.f. 1.1.1979 by order dated 29.1.1979.

2. The main relief sought by the petitioner in this OA was that since the rota quota had failed, the adhoc service w.e.f. 1976, as it was followed by the regularisation in the year 1979, should also be counted for the seniority applying the principle of

continuous officiation. In support of his claim, the petitioner submitted that his case was covered by the ratio in the matter of M.P.Verma & Ors. vs. Secretary, I & B & Ors. reported in 1989 SLJ 1274 CAT(F.B.). On the basis of this decision wherein this Court has found that the rota-quota between the year 1968 to 1974 had broken down, it was argued by the petitioner since the subsequent period as well, the same system has continued, and the case of M.P.Verma is squarely applicable to his case as well.

3. Counsel for the respondents, on the basis of the counter affidavit submitted that the M.P.Verma's case only covers the years 1968 to 1974 and the finding of the court that the rota quota has broken down is applicable to the said period only and there is no subsequent orders in similar manner.

4. Therefore, the only question to be decided in this case is whether the rota quota as found by this court in M.P.Verma's case between the years 1968 to 1974 has also been broken down during the years 1976 to 1979 or not.

5. Learned counsel for the petitioner has annexed an order of the Allahabad Bench of this Tribunal in the matter of S.C.Mathur vs. UOI vide OA No. 1317/92 wherein the Allahabad Bench of this Tribunal on the basis that even during this period between 1976-1979 as well the rota quota has been broken down, the principle of continuous officiation has been applied to the petitioner therein who is admittedly junior to the petitioner in the present OA.

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6. Learned counsel for the respondents further submitted that the order in the case of S.C.Mathur has already been implemented subject to the outcome of the appeal pending in the Hon'ble Supreme Court and in the order, on the basis of which the promotion to the petitioner therein was granted, Hon'ble Supreme Court had clarified that no further implementation of the said judgement should be continued.

7. We are of the view that even though an appropriate order passed in this OA should not be construed as further implementation of the Allahabad Bench to the extent that the present petitioner was not a party to the said OA. This is an independent OA filed before this Bench in the year 1992 and it has now come up for final disposal.

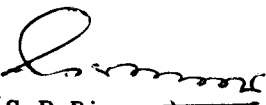
8. We have considered the entire case and we are of the prima-facie opinion that following the ratio of the Allahabad Bench of this Tribunal, the rota quota seems to have broken down even between 1976 to 1979 as well.


9. In the circumstances, it may not be, at this time, necessary for us to go in detail into the fact whether the rota quota between 1976-79 has broken down or not especially in view of the fact that the decision of the Allahabad Bench of this Tribunal in the case of one junior to the present petitioner is that the rule of continuous officiation has to be applied. We are also of the opinion that the same rule shall be applied to the case of the petitioner

herein subject to the outcome of the appeal pending before the Hon'ble Supreme Court against the decision of the Allahabad Bench of this Tribunal.

10. In the circumstances, respondents shall consider promoting the petitioner to the next grade treating provisionally his period between 1976-1979 as regular in accordance with the principle of continuous officiation and pass appropriate orders stating in the order itself that these orders of promotion would be subject to the outcome of the civil appeal pending against the order of the Allahabad Bench of this Tribunal. We are inclined to pass this short order without going in detail into the merit of the case for the time being, for the reason that the petitioner is at the verge of superannuation and in the event the respondents succeed before the Hon'ble Supreme Court, whatever be the orders/directions given by the Hon'ble Supreme Court in the said appeal shall also be 'mutatis mutandis' applicable to the case of the petitioner, as well.

11. With these directions this OA is disposed of with no order as to costs. Petitioner is given liberty to re-agitate the issue after the disposal of the civil appeal as referred above by the Hon'ble Supreme Court in case any further issue survives.


(S.P. Biswas)
Member (A)


(Dr. Jose P. Verghese)
Vice-Chairman (J)

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