

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1928/92New Delhi: this the 6th October, 1997.

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

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

Shri P.K.Handoo,
 S/o Shri Vesh Nath Handoo,
 R/o 33/B, Sector- IV,
 DIZ Area, New Delhi- 01
 working as Assistant in
 the office of Intelligence Bureau,
 New Delhi Applicant.

(By Advocate: Shri M.K.Gupta)

Versus

Union of India
 through
 the Secretary,
 Ministry of Home Affairs,
 North Block,
 New Delhi - 01

2. The Director,
 Intelligence Bureau,
 Ministry of Home Affairs,
 North Block,
 New Delhi - 01 Respondents.

(By Advocate: Shri N.S.Mehta)

JUDGMENTBY HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN (A) .

Applicant seeks confirmation as (i) LDC w.e.f. 1.7.67; as (ii) UDC w.e.f. 1.5.71 and as (iii) Assistant on regular basis w.e.f. 1.8.74 and as confirmed Assistant w.e.f. 1.5.77 with appropriate position in seniority list with all consequential benefits.

2. Applicant joined service as Teleprinter Operator (TPO) on 18.5.65 in the office of Deputy Director, Subsidiary Intelligence Bureau, Amritsar. The post of TPO in Intelligence Bureau (IB) was later redesignated as LDC vide MHA's order dated

14.9.65 . Respondents' order dated 15.12.80 (Annexure-A6) makes it clear that although applicant's appointment as TPO/LDC in 18 w.e.f. 18.5.65 was regular, he was required to pass a UPSC's typing test for confirmation as LDC and for promotion as UDC. Applicant passed and qualified UPSC's typing test on 26.7.67 which made him eligible for confirmation as LDC and manifestly therefore he cannot claim confirmation as LDC from 1.7.67 i.e. a date prior to his qualifying in the UPSC's typing test. That apart mere eligibility for confirmation on a particular date does not automatically entitle a Govt. servant to be confirmed from a date because confirmation depends upon availability of permanent vacancy and upon the position in seniority list. Respondents have stated that having regard to availability of permanent vacancy, the position of the applicant in the seniority list, he could be confirmed as LDC only w.e.f. 1.5.71, and no materials have been shown by the applicants to revert this contention.

3. Applicant states that respondents issued a seniority list of LDCs on 10.3.71 in which his position was shown at Sl.No.672 whereas it should have been at Sl.No.653. He states that he represented on 23.3.71 but received no reply. If so, he could have approached the competent legal forum at that stage itself, but evidently he did not do so. In this connection, respondents have replied that they themselves had revived applicant's position in

n

the seniority list at Sl.No.634 which is above the position at Sl.No.653, claimed by him.

4. Applicant was promoted as UDC w.e.f. 3.3.71 vide order dated 4.3.71 (Annexure-A3). This order specifically states that applicant's seniority in the grade of UDC would be in order of his confirmation in the grade of LDC and it would not give any right of seniority over those who have also been confirmed as LDC and whose cases of promotion as UDC were under consideration separately.

5. Applicant in para 4(E) of OA admitted that this was only an officiating promotion but in para 4 (H) of the OA claimed that it was a regular promotion. A plain reading of the order dated 4.3.71 makes it clear that the applicant's promotion as UDC was not regular one. As the applicant has failed to lay any foundation to establish his claim, we see no good reason to interfere in the matter. Furthermore as the cause of action dates back to 1.7.67, or at any rate 1.5.71, it lies wholly outside the Tribunal's jurisdiction in the background of Section 21(2) (1) (a) AT Act.

6. Thus, both on merits as well as on point of lack of jurisdiction, the OA is dismissed. No costs.

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

S. R. Adige
(S.R.ADIGE)
VICE CHAIRMAN(A)