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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. O.A. No. 2004/92

Date of decision 18.2.93.

R.B. Gupta

Applicant

Shri S.C. Luthra,

Counsel for the applicant

vs.

Union of India

Respondents

Shri P.H. Ramchandani with Shri J.C. Madan, Counsel for the respondents

CORAM

The Hon'ble Mr. S.P. Mukerji, Vice-Chairman(A).

The Hon'ble Mr. C.J. Roy, Member (J).

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal?

(Judgment of the Bench delivered by Hon'ble
Mr. S.P. Mukerji, Vice-Chairman (A).)

JUDGMENT

The material facts of the case lie within the narrow compass and can be summarised as follows.

2. In accordance with the respondent's own communication dated 14.7.92 at Annexure A-11 by which the applicant's representation was rejected, the applicant was appointed to officiate as Senior Investigator in the CSO, Department of Statistics, with effect from 10.7.75. The post of Senior Investigator was then carrying the pay scale of Rs. 550-900 which was later revised to the scale of Rs. 1640-2900. He was a quasi-permanent Statistical Assistant in the Ministry of Education. He was on deputation with effect from 29.2.80 as Senior Statistical Assistant in the Directorate of Adult Education which is also in the same pay scale as that of Senior Investigator. After selection by the UPSC and on their recommenda-

tion, he was relieved from this post on 16.8.82 and was appointed as Statistical Officer in the Directorate of Marketing and Inspection, Ministry of Rural Development with effect from 17.8.82 in the pay scale of Rs. 650-1200, revised to the pay scale of Rs. 2000-3500.

It is also admitted that the post of Senior Investigator as also the post of Statistical Officer were both feeder categories for promotion to Grade IV of the ISS. In accordance with the directions of the Supreme Court dated September 11, 1990, in Kapila's case, all eligible persons who were in the feeder categories were also to be given promotion to Grade IV of the ISS if persons junior to them had been promoted on the basis of the Supreme Court's judgment in the case of Narender Chadha. On that basis, vide order dated 16.5.91, at Annexure A-6, "eligible petitioners and similarly placed non-petitioners belonging to the Statistical discipline" were promoted to Grade IV of the Indian Statistical Service. The applicant's grievance is that while in that list persons who were appointed as Senior Investigators later than him were promoted, ~~but~~ the applicant was not promoted by not taking into account his service as Senior Investigator from 10.7.75 to 18.8.82 and only his service as Statistical Officer from 17.8.82 was recognised. In accordance with the Ministry of Rural Development's communication at Annex A-11, the reason given was that since his name was deleted from the seniority list of Senior Investigators, as he was on deputation, his service as Senior Investigator could not be recognised. The respondents have, however, accepted that the applicant was working as Senior Investigator from 10.7.75 whereas in accordance with the directions of the Hon'ble Supreme Court in Kapila's case, the junior most person who was promoted to Grade IV of the ISS was Shri J.A. Lari who was appointed to the feeder grade post in the Ministry of Health & Family Planning on 30.5.1977. The following extracts from that communication would be relevant:

"The juniormost feeder grade person, who was a petitioner in Kapila's case and was therefore covered by the Supreme Court order dated 11.9.90 in that case, was Shri Z.A. Lari who was appointed to the feeder grade post in the Ministry of Health and Family Welfare on 30.5.77. As

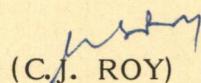
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the date of appointment of Shri Gupta in the feeder grade post of Statistical Officer in the Ministry of Rural Development is 17.8.82 only and the services rendered by him in the feeder post of Senior Investigator is CSO between 10.7.75 and 16.8.82 cannot be counted for continuity purposes as the feeder grade posts do not form a single cadre, his claim for appointment to Grade IV of ISS with effect from 1.10.90 in terms of Kapila order could not be accepted. His present representation is also rejected."

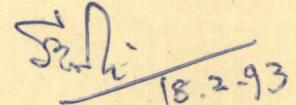
3. The post of Senior Investigator in CSO and the post of Statistical Officer in the Ministry of Rural Development are among the posts recognised as feeder posts for Grade IV of the ISS. For promotion to Grade IV of the ISS, it is admitted that an ^{integrated} eligibility list based on the continuous appointment in the feeder ^{category} ~~cadre~~ had been prepared. The applicant's name was not included in that eligibility list on the technical ground that his name had been deleted from the seniority list of Senior Investigators as he did not revert to the CSO at the end of two years of his going on deputation even though he had given an undertaking either to revert or resign from the post of Senior Investigator in the Department of Statistics after completion of two years of service as Statistical Officer in the DMI. The respondents produced before us the office order dated June 19, 1983, ordering that the name of the applicant may be removed from the seniority list of Senior Investigators with effect from 17.8.82. There is nothing to show that before his name was removed, he was given any show cause notice. In any case, since he was on deputation in the Ministry of Education in the same grade as that of Senior Investigator and his lien had been maintained in the CSO, the removal of his name from the seniority list of Senior Investigators was uncalled for. ^{Additionally} ~~In any case,~~ even if his name was not in the list of Senior Investigators, since in implementation of the judgment of the Supreme Court the respondents themselves in their order dated 16.5.91, at Annexure A-6, ^{have} promoted all eligible officials "belonging to the Statistical discipline", there is no reason why the applicant ^{of the same discipline} should not also have been considered for promotion on the basis of his continuous officiation as Senior Investigator from 10.7.75. In the eligibility list of officials for promotion to Grade

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IV of the ISS, it is the date of continuous officiation in the feeder ~~categories~~ ^{grade} that should determine the integrated seniority. Since it is admitted that persons who had been promoted as Senior Investigators later than the applicant have been promoted to Grade IV of the ISS as indicated in Annexure A-11, we allow the application to appoint the applicant from 1.10.90 in terms of the judgment in Kapila's case by treating the applicant's case at par with his counterparts in other offices and notably Shri J.A. Lari who was appointed to the feeder grade post later than the applicant's appointment as Senior Investigator. Action on the above lines should be completed within a period of three months from the date of the communication of this order. There will be no order as to costs.


(C.J. ROY)

MEMBER (J)


(S.P. MUKERJI)

VICE-CHAIRMAN (A)