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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.3102/1992
M.A.1838/94

New Delhi, This the 8th Day of November 1994

Hon'ble Shri Justice S.C.Mathur, Chairman

Hon'ble Shri P.T.Thiruvengadam, Member (A)

Shri K P Dohare
s/o Shri N S Dohare
Addl Industrial Advisor (Retd)
From Dte Gen & Tech Development
Ministry of Industry
Udyog Bhavan, New Delhi 110 011.
R/o B2/73, Paschim Vihar
New Delhi - 110 063.

..Applicant

By Applicant in person

Versus

Union of India: Through

1. Secretary(TD) & DG(TD)
Dte Gen of Tech.Development
Udyog Bhavan, New Delhi 110 011.
2. Secretary
Ministry of Industry, Govt of India
Udyog Bhavan, New Delhi 110 011.
3. Shri P.R.Latey
Retired Secretary
Through: Secretary(TD) & DG
Udyog Bhavan, New Delhi 110 011.
4. Shri N Biswas
Acting Secretary(TD)
& DG(TD) Udyog Bhavan
New Delhi 110 011.
5. Shri N.G.Basak IA I/C
Dte Gen of Tech Development
Udyog Bhavan, New Delhi-11.
6. Shri M.P.Singh I.A.
Dte Gen of Tech.
Development
Udyog Bhavan
New Delhi -11.
7. Shri C.D.Anand I.A.
DGTD, Udyog Bhavan
New Delhi.
8. Shri D.K.Agarwal I.A.
DGTD, Udyog Bhavan
New Delhi.
9. Shri M.S.Grower DDG
DGTD, Udyog Bhavan
New Delhi-110 011.

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10. Shri A.K.Das I.A.
DGTD, Udyog Bhavan
New Delhi 11
11. Shri S.N. Agarwal AIA
DGTD, Udyog Bhavan
New Delhi.
12. Shri R.S. Ghosh, AIA
DGTD, Udyog Bhavan,
New Delhi.
13. Shri B Minji I.A. Sh B. Minji, I.A. Corrected
DGTD, Udyog Bhavan, vide order
New Delhi. dt 11-10-95
14. Shri O.P. Saxena AIA
DGTD Udyog Bhavan
New Delhi.
15. Shri J.M. Garg AIA
DGTD Udyog Bhavan
New Delhi.
16. Shri Jasbir Singi, AIA Sh Jasbir Singh, AIA
DGTD Udyog Bhavan Corrected vide
New Delhi. order
dt 11-10-95
17. Shri Nayaz Rasul AIA
Through: Secretary (TD) & DG (TD)
Udyog Bhavan,
New Delhi.
18. Shri N.K. Agarwal AIA
DGTD, Udyog Bhavan
New Delhi- 110 011.

..Respondents

By Shri V S R Krishna, Advocate

O R D E R (Oral)

Hon'ble Shri Justice S.C. Mathur, Chairman

1. The applicant has sought the following reliefs through this application:
 - (i) To quash the decision of the review DPC held on 1.7.92 and 2.7.92 ;
 - (ii) To quash the seniority list of Addl. Industrial Adviser (Chemicals) as circulated by the respondent No.1 vide orders dated 31.7.92 and 4-9-92 on the basis of the recommendation of Review DPC dated 1.7.92 and 2.7.92;

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(iii) To restore the seniority of the applicant as per seniority list of the Addl. Industrial Adviser (Chemicals) circulated in 1990 based earlier DPCs held as per Rules before 1990 and

(iv) To direct the respondents 1 and 2 to create two supernumerary posts of Addl Industrial Adviser (Chemicals).

2. The applicant joined the Department in question on 17.9.68 as Asst Development Officer. He was promoted to the post of Development officer on 14.5.79. Thereafter he was promoted to the post of Additional Industrial Adviser on 3.3.1989. The applicant claims that he was regularised on this post and thereafter he retired from service.

3. Certain Development Officers were aggrieved by the assignment of seniority and promotion of officers. They filed Original Applications before this Tribunal which were disposed of by judgement and order dated 31.10.1990 (Annexure A-8). The Tribunal held that the applicants were entitled to have their seniority computed afresh from the date of their initial appointment on being regularised. The Tribunal accordingly proceeded to allow the OAs and directed the respondents either to correct the seniority list of 1984 or to draw a fresh seniority list in the light of the judgement. The Tribunal also observed that the applicants will be entitled to consequential benefits. It is not disputed by the applicant that he was also a party to the proceedings which ended in Tribunal's judgement dated 31.10.90.

4. In view of the directions contained in the aforesaid judgement it became incumbent upon

the authority either to amend the seniority list of 1984 or to draw a fresh seniority list taking into account the observations made in the judgement. Since consequential benefits were also required to be given it further became incumbent upon the authority to review the promotions already made. In pursuance of the judgement seniority lists were prepared. One seniority list has been filed as enclosure (Annexure 11). This seniority list shows that it is as on 1.8.92. The applicant's name is not mentioned in this list. The applicant's grievance^y is that his name should have found place in this seniority list. We are unable to accept the submission of the applicant. Seniority list clearly indicates that it reflects^{the} position obtaining on 1.8.92. The applicant had already retired on 31.7.90.

5. As a result of the revision of the seniority list in pursuance of the judgement of the Tribunal Review DPC met on 1.7.92 and 2.7.92 and made recommendations for promotion to the post of Additional Industrial Adviser. The applicant's name does not find place in the order dated 31.7.92(Annexure A-2). According to the applicant, the failure to include his name in the seniority list and in the list of promotion amounts to his reversion from the post of Additional Industrial Adviser to the post of Development Officer. The applicant has admitted that no order of reversion has so far been passed by the respondents.

6. In the reply filed on behalf of the respondents it has been stated that certain

persons have challenged the judgement of the Tribunal before Their Lordships of Hon'ble Supreme Court who have passed interim order directing that no reversion shall be effected on the basis of the Tribunal's Judgement.

A statement to this effect has been made in para 1 and 2 of the reply. On the basis of averments in the said paragraph, the learned counsel for the respondents submitted that the application is pre-mature.

7. The applicant has submitted that the application is not pre-mature as the respondents should have proceeded to adjust him by creating supernumerary post. For this submission he has placed reliance upon the decision of Their Lordships of Hon'ble Supreme Court in Narender Chadha & Others Vs Union of India and others AIR 1986 SC 638. It is not necessary for us to examine this decision at this stage as the occasion to create supernumerary post will arise only when the respondents take decision to revert the applicant from the post of Additional Industrial Adviser. As yet no such decision has been taken. We cannot at this stage anticipate the final decision of the respondents. In our opinion, therefore, the application is pre-mature.

8. The applicant has cited a large number of authorities in support of the proposition that no order of reversion can be passed without giving opportunity of hearing and that a person who was promoted after having been selected by a duly constituted DPC cannot be reverted. It is not necessary to examine these decisions as we have held that the application is premature and no

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order of reversion has so far been passed. However, we may only enumerate the decisions cited by the applicant as under:-

- (i) Sideshwar Prasad Vs Union of India and others 1992(1) SLJ 78 (CAT)
- (ii) E.I. Joseph Vs Union of India & oths 1991(2) SLJ 73(CAT)
- (iii) Bikali Charan Rout Vs State of Orissa and others 1990(1) SLJ 16 (CAT)
- (iv) Takka Nath Dahal Vs Union of India and others 1991(1) SLJ 253 (CAT)
- (v) Tapas Kr. Bose and others Vs Union of India and others 1992(2) SLJ 440 CAT
- (vi) Bighneswar Pradhan Vs State of Orissa and others 1994(1) SLJ 282 (CAT)

7. The applicant has submitted that although his name was not included in the promotion list the names of others who have retired or died has been included in the order of 31.7.92. In the said order dated 31.7.92 it is mentioned as "retired/expired" against the name of some persons. It is not necessary for us to consider this aspect as we have already observed that the application is premature. When an order of reversion is actually passed against the applicant he will be at liberty to approach the Tribunal and raise the necessary prayers. At this stage there is no occasion to consider this plea.

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8. In view of the above the application is dismissed.
There shall be no order as to costs.

P. J. *Thiruvengadam*

(P.T. THIRUVENGADAM)
Member(A)
8-11-94

S. C. Mathur
(S.C. MATHUR)
Chairman
8-11-94

LCP