

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

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RA 34/99 in MA 196/99
OA 2317/92

New Delhi this the 1st day of June, 1999.

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri K. Muthukumar, Member (A)

Union of India represented through

1. Secretary, Ministry of Defence,
New Delhi.
2. Engineer-in-Chief,
Army Headquarters, Kashmir House,
New Delhi.

.Review Applicants

(By Advocate Shri V.S.R. Krishna)

Versus

Shri Chander Pal Sharma
Supdt B/R Grade-1

.Respondent

(None for the applicant)

O R D E R

(Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Review Application 34/99 has been filed by the respondents together with MA 196/99 praying for condonation of delay, to review the impugned order dated 8.10.97 in OA 2317/92.

2. We have heard Shri V.S.R. Krishna, learned counsel for the Review applicants. None had appeared for the original applicant, even on the second call.

3. We note from the pleadings in OA 2317/92 that the applicant has himself stated that he was given ad hoc promotion w.e.f. 11.11.1982 which according to him was pursuant to the recommendations of the duly constituted DPC. He was given ad hoc promotion w.e.f. 19.1.1983 as per the order dated 7.2.1983. In the OA the applicant had sought a direction to the respondents to count his ad hoc period of service w.e.f. 19.1.83 to 30.1.1985 when he was regularly promoted to the post of Superintendent

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B/R Grade.1. In the reply filed by the respondents they had stated that the post of Supdt.B/R Grade-1 in MES is a selection post and in the instant case only ad hoc promotion was made on the basis of seniority-cum-fitness and not on selection, based on merit. The respondents had submitted that the ad hoc service rendered by the applicant could, therefore, not count for the purpose of seniority in the grade.

4. In RA 34/99, the respondents have submitted that unfortunately they were not represented by their counsel when the impugned oral order dated 8.10.97 was passed. According to them an error has crept in the impugned order wherein it has been stated that the petitioner had also pointed out that by subsequent order which is stated to have been an amended order dated 2.1.1984, the petitioner had been put on ad hoc basis w.e.f. 19.1.1983. Shri Krishna, learned counsel has emphatically submitted that since the applicant has himself stated that he was only promoted on ad hoc basis, therefore, the mention of 'probation' in the promotion order is an error which he cannot take advantage of. We note that it is only in the rejoinder to OA that the applicant has himself refuted the allegation that he was promoted on ad hoc basis because he was on 'probation' w.e.f. 19.1.83 and has submitted that he was appointed in accordance with the Recruitment Rules.

5. After careful perusal of the pleadings in the OA and the submissions made in the RA, we find merit in the submissions made by the Review applicants that the ad hoc promotion order on which applicant was placed on 'probation' is an error and not in accordance with the Rules. In the circumstances ^{stated in P} MA 196/99 praying for ^{that H.A. is} condonation of delay _{is} allowed.

6. In the result RA 34/99 is allowed. The impugned order dated 8.10.97 is recalled.

7. Let OA be listed for hearing on merits on 29.6.99.

(K. Mathukumar)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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