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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

OA-1165/93

DATE OF DECISION

27-9-93

Sh. Chhottu Ram**Petitioner**Sh. H. K. Gupta**Advocate for the Petitioner(s)****Versus**U.O.I. & Ors**Respondent**Ms. Pritma Mittal, proxy counsel
for Sh. K.C. Mittal, counsel**Advocate for the Respondent(s)****CORAM****The Hon'ble Mr. N. V. Krishnan, Vice Chairman (A)****The Hon'ble Mr. B. S. Hegde, Member (J)**

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

JUDGEMENT (ORAL)

(delivered by Sh. N. V. Krishnan, V.C. (A))

The applicant is aggrieved by Annexure A-1 office order dated 23.4.1993 by which he has been reverted to the post of Constable in the Bureau of Police Research and Development Mess from the rank of Head Constable by which he was promoted w.e.f. 12-10-90, on the grounds that he did not have 10 years of service in the grade of constable which, admittedly is the requirement in accordance with

the Recruitment Rules (Annexure A-6)

2. The applicant contends that prior to his coming on deputation to B.P.R.D. in 1973, he was holding the same post of Constable in the B.S.F. on 1.6.67. He was confirmed as constable in the B.S.F. from 1.1.71. He was absorbed in Bureau of Police Research and Development and regularised as a constable in 1984. He was promoted to the rank of Head Constable on ad hoc basis with effect from 30-1-86. He was regularised as Head Constable with effect from 12.10.90. He therefore, contends that he has the necessary length of service as constable to be promoted as Head Constable.

3. Notice was issued to the respondents. They have filed a reply. It is stated that the applicant has sent a representation against his reversion which was received on 4-5-93 (Annexure A-5) He has, thereafter rushed to the Tribunal by filing this O.A. on 21.5.93.

4. Respondents also contend that on merits the applicant has no case.

5. We have heard the parties today. We notice that applicant has recently made a representation at annexure A-5. The question involved is about interpretation of the requirement of 10 years service

in the grade of Constable as per annexure A-6

recruitment Rules. Learned counsel for the

applicant contends that as the applicant has been

confirmed as a constable in the B.S.F. from 1.1.71

he should be held/have service in the grade of constable from that date. He seeks to ~~denying~~ derive

support for his case by relying on the circular

No.20020/1/80/Ett.(D) dated 29-5-86 issued by the

D.P.A.R. (Annexure R-1) which adds the following

provisions to the O.M. dated 22.12.59.

"(IV) In the case of a person who is initially taken on deputation and absorbed later (i.e. where the relevant recruitment rules provide for "Transfer on deputation/transfer"), his seniority in the grade in which he is absorbed will normally be counted from the date of absorption. If he has, however, been holding already (on the date of absorption) the same or equivalent grade on regular basis in his parent department such regular service in the grade shall also be taken into account in fixing his seniority subject to the condition that he will be given seniority from the date he has been holding the post on deputation, or the date from which he has been appointed on a regular basis to the same or equivalent grade in his parent department, whichever is later.

The fixation of seniority of a transferee in accordance with the above principle will not, however, affect any regular promotions to the next higher grade made prior to the date of such absorption. In other words, it will be operative only in filling up of vacancies in higher grade taking place after such absorption.

In cases in which transfers are not strictly in public interest, the transferred officers will be placed below all officers appointed regularly to the grade on the date of absorption.

6. In our view, the applicant ought to have filed representation to the respondents indicating

clearly ~~in~~ the grounds on which he relies. Annexure

A-5 representation is ^{l ske} sketchy and does not either contain the detailed reasons mentioned in the

O.A. nor the arguments adduced before us by the
ld.counsel for the applicant.

7. In the circumstances, we are of the view,
that it will only be proper to permit the respondents
to dispose of the matter first instance.

8. Therefore, without going into the merits
of the O.A., we dispose of this application with
a direction to the applicant to submit a *fresh* ⁸
representation against the impugned order stating
all the facts of the case and mention ^u all the
grounds on which he relies, within one month from
the date of receipt of this order. In case such
a representation is received, the respondents shall
dispose of it in accordance with law within a
further period of one month from the date of its
receipt under intimation to the applicant. If the
applicant is aggrieved of the order passed by the
respondents it is open to him to seek such redress
as may be advised.

B.S. Hegde
(B.S. Hegde)

Member(J)

N.V. Krishnan
27.8.73
(N.V. Krishnan)

Vice Chairman(A)