

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.1645/93

HON'BLE SHRI JUSTICE V.RAJAGOPALA REDDY, V.C.(J)
HON'BLE SHRI R.K. AHOOJA, MEMBER(A)

New Delhi, this the 17th day of August, 1999

Shri S.D. Ahuja
Assistant Legislative Counsel
Legislative Department
Ministry of Law, Justice & Company Affairs
Shastri Bhawan, New DelhiApplicant

(By Advocate: Shri B.B. Raval)

Versus

UNION OF INDIA through
The Secretary
Ministry of Law, Justice & Company Affairs
Legislative Department
Shastri Bhawan, New DelhiRespondent

(By Advocate: Shri Madhav Panikar)

O R D E R

[Hon'ble Shri R.K. Ahooja, Member(A)]

The applicant, a Selection Grade P.A. of Central Secretariat Stenographers' Service (CSSS) was appointed to officiate as a Confidential Assistant in the Legislative Department in the Ministry of Law for a period of three months with effect from 5.3.1983. From 17.1.1984 his appointment was treated as on transfer on deputation basis and this continued till 8.8.1988. From 9.8.1988 this was converted into an appointment on transfer. The nomenclature of the post was in the mean time changed to Confidential Superintendent. The Indian Legal Service ('ILS' for short) Rules amended on 15.7.1988 and notified on 19.8.1988 included the post of Confidential Assistant in the Indian Legal Service feeder cadre for promotion to the post of Assistant Legislative Counsel (Grade.IV of I.L.S.). According to this amendment the posts of Assistant Legislative Counsel were to be filled up in

the ratio of 1:1 by promotion and by direct recruitment. The relevant sub-rule (iv) of Rule 6 further provided that if a suitable person was not available, by the specified mode, it could be filled in by the other mode of recruitment.

2. The case of the applicant is that even though he was absorbed on transfer basis w.e.f. 9.8.1988, it was only in 1991 that he was allowed the benefit of his past service as Confidential Assistant/ Superintendent w.e.f. 25.2.1985. As such he had rendered three years of service which was in his case the qualifying service for promotion to Grade.IV of I.L.S. However, he was not considered by the DPC convened to fill up the posts in 1988-89. At that time in all six posts of Assistant Legislative Counsel were available, out of which three were for promotees and three were for direct recruits. In 1989-90 some more vacancies became available due to the promotion of three Assistant Legislative Counsel. In all four posts were available, out of which three were to be filled up on direct recruit basis through the UPSC and against ^{Promotion} ~~direct~~ vacancy the applicant was promoted with effect from 7.8.1990. The applicant's second grievance is that instead of following the rules of inter-se seniority of direct recruits and promotees, the applicant was placed below the three direct recruits appointed for the year 1990-91 vacancies. The applicant has now come before the Tribunal seeking two reliefs, firstly that the respondents be asked to convene a Review DPC for the year 1988 for the posts of Assistant Legislative Counsel for which his name should be considered and, secondly, to fix his

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✓ seniority correctly in Gr.IV of Indian Legal Service vis-a-vis the direct recruits.

3. The respondents, in their reply, have stated that the applicant did not have the requisite seven years service laid down in the rules for consideration for the vacancies of 1988-89. They further state that the applicant did not have the requisite qualifying service even in 1990 but a case was made out to the Department of Personnel for relaxation and the latter had agreed to grant relaxation in respect of qualifying service by taking into account the ad-hoc and the deputation service of the applicant rendered by the applicant right from 1983. It was on that basis that the applicant had been considered and appointed from 1990. As he had been appointed through relaxation in the rules after the appointment of direct recruits, he was not entitled to the benefit of the rota-quota system and had to be thus placed below the direct recruits in the seniority list.

4. The claim of the applicant in regard to the vacancies of 1989-90 is barred both on grounds of limitation as well as on merit. The applicant has come before the Tribunal in 1993 while the appointments were made in 1988-89. Even otherwise the applicant was not entitled to be considered. The normal eligibility in terms of qualifying service for those holding the posts mentioned in the Third Schedule was as per Rule 8 of I.L.S. Rules 1957, not less than seven years. It was, however, provided by the I.L.S. (Amendment) Rules, 1987 that in case of officers who were holding

Or

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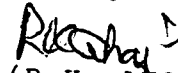
any of the posts mentioned in the Third Schedule on the date of the commencement of the said rules, the eligibility shall be three years regular service in the feeder cadre. In 1987 the applicant was still working on deputation and had not been absorbed against the post of Confidential Superintendent. It was only by the Gazette of 20th August, 1988 (Annexure-I to the reply to the counter) that the post of Confidential Superintendent was added to schedule III for the purpose of consideration of promotion to Grade-IV of I.L.S. in Legislative Department. Thus, at the time of amendment of the I.L.S. Rules, 1987 the applicant was not even holding a feeder cadre post and could not thus be entitled to the reduced qualifying service of three years. The applicant admittedly ^{had} not completed seven years of service for consideration to the Grade IV of the I.L.S. He had thus no claim for consideration for the 1988-89 vacancies.


5. In regard to the second relief sought for by the applicant with respect to his inter-se seniority, it is seen that there were four posts available during 1989-90. The respondent placed a requisition for filling up three posts on direct recruitment basis with the UPSC. Even taking into account his inter-se seniority in 1985 the applicant had not at that stage completed seven years of qualifying service for being considered for promotion. The respondent, however, made a reference to the Department of Personnel and Training which agreed to grant of relaxation in case of applicant keeping in view his ad-hoc as well as deputation service prior to his permanent absorption.

✓ According to the respondents, since the promotion of the applicant was by a special relaxation of the rules, he could not be granted the benefit of the rota-quota system. On the other hand, the argument on behalf of the applicant is that eligibility of his earlier service on deputation has also to be counted. (27)

6. Having considered the matter carefully, we are not inclined to accept the contention of the applicant. Admittedly, the direct recruits came through the UPSC. They were appointed earlier to the applicant. The applicant at that time had not completed the requisite seven years service even taking his seniority into account from 1985. The promotion itself of the applicant required a special dispensation by way of relaxed standards. He did not fulfill the requisite conditions prescribed in the recruitment rules for the promotion mode of recruitment. As a principle, those who come through relaxed standards whether in terms of educational qualifications or in terms of qualifying service, cannot be equated to those who fulfil the prescribed conditions and do not require such a relaxation. The applicant having come through relaxed standards, he is not entitled to be placed above direct recruits in terms of recruitment rules. The respondents have rightly placed him in the seniority list in accordance with his seniority.

7. In the result, the O.A. fails and is accordingly dismissed. There will be no order as to costs.


(R.K. AHOJA)
MEMBER(A)


(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)