

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

13

O.A. No. 1965 of 1993

14 MAY
New Delhi, dated the 14 MAY 1998.

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri B.K. Bhardwaj,
L.D.C.,
Ministry of Tourism,
Dept. of Tourism,
HMC Division,
Transport Bhawan,
Nw Delhi.

... APPLICANT

(By Advocate: Shri S.D.Kinra)

VERSUS

1. Secretary,
Ministry of Civil Aviation,
Dept. of Civil Aviation,
New Delhi.
2. Secretary,
Ministry of Tourism,
Transport Bhawan,
New Delhi.
3. Secretary,
Ministry of Food & Civil Supplies,
Dept. of Food,
Krishi Bhawan,
New Delhi.
4. Secretary,
Dept. of Personnel & Training,
Govt. of India,
North Block,
New Delhi.
5. The Director General,
Ministry of Tourism,
Transport Bhawan,
New Delhi.

... RESPONDENTS

(By Advocate: Shri N.S.Mehta)

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns respondents' order dated 15.12.86 (Ann. A-1) and seeks inclusion in Central Secretariat Clerical Service (CSCS) with appropriate seniority and consequential benefits including promotion.

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2. Applicant was appointed in 1978 as LDC on ad hoc basis in Hotel Management and Catering (HMC) Division of Dept of Food & Agriculture. On October-November, 1982 HMC Division was transferred along with posts and incumbents (including applicant) to Dept. of Tourism. Meanwhile applicant had applied for participation in the Exam. conducted by SSC in 1982 for regularisation of ad hoc employees serving in participating and non-participating offices in the posts held by them in the respective offices. The examination was held in Dec. 82 and applicant qualified in the same (Ann. A-8). As applicant had applied for the exam. prior to his transfer to Dept. of Tourism from Dept. of Food, the DP&T (cadre controlling authority) nominated him to the Dept. of Food, but as by then he had already been transferred to Dept. of Tourism, the Dept. of Food passed on the nomination to Dept. of Tourism. The Dept. of Tourism which is a non-participating office appointed applicant as a regular LDC w.e.f. 15.3.83 vide order dated 15.7.83 (Ann. R-IV).

3. The Under Secretary, Dept. of Civil Aviation had filed reply on behalf of R-1 & 4 (Dept. of Civil Aviation & DP&T). In that reply it has been stated that recruitment to the CSSS/ CSCS cadre of the Ministry of Civil Aviation and Tourism is made by the Dept. of Civil Aviation, but as applicant was not a member of any of the

above services at the time of his transfer from the Ministry of Food, he cannot be transferred to the CSCS cadre of the Ministry of Civil Aviation & Tourism and as he was appointed by the Dept. of Tourism which is a non-participating office, he has no right to seek encadrement in the Ministry of C.A. & T.

4. A reply has also been filed on behalf of Dept. of Tourism & Directorate General of Tourism (R-2 & 5) in which it has been stated that no separate cadre was formed in Dept. of Tourism and the CSCS cadre remains with Dept. of Civil Aviation. Hence it is said that the Dept. of Tourism has no authority to assign applicant seniority in CSCS cadre as it does not participate in CSCS Scheme. It is further stated that what Dept. of Tourism could do was to refer applicant's request for assignment of seniority in CSCS cadre either to Dept. of Civil Aviation or Dept. of Food or DP&T which has been done and unless his representation is decided, Dept. of Tourism cannot decide his seniority. It has also been pointed out that as per Dept. of Food Office Order dated 18.11.82 (Ann. A-7), applicant would be treated as on temporary loan from Dept. of Food.

5. We have heard both sides. We have also perused the files in which applicant's case was dealt with and given the matter our careful consideration.

6. The foregoing analysis makes it clear that had not applicant been transferred from Dept. of Food to Dept. of Tourism just around the time he was declared successful in the SSC Exam. in 1982, this controversy would perhaps not have arisen. In any case applicant cannot be ~~punished~~ ^{Made to suffer} for circumstances totally beyond his control.

7. We dispose of this O.A. with a direction to Respondent No.4 (Secretary, Dept. of Personnel & Training) to consider, in the light of the facts noticed above, the inclusion of applicant in CSCS with appropriate seniority and consequential benefits including promotion, by means of a detailed, speaking and reasoned order in accordance with rules and instructions within four months from the date of receipt of a copy of this judgment. No costs.

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)

S.R. Adige
(S.R. ADIGE)
VICE CHAIRMAN (A)

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