

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(6)

OA.No.1982 of 1993

New Delhi, dated this the 25th of April, 1994.

Shri Tushar Ranjan Mohanty,
S/o Shri Rabi Narayan Mohanty,
Deputy Director,
Department of Programme Implementation,
Ministry of Planning and
Programme Implementation,
212, Sardar Patel Bhavan,
Sansad Marg, New Delhi 110 001. ...Applicant

Applicant in person

versus

Union of India through
Secretary, Deptt. of Statistics,
Ministry of Planning and
Progress Implementation,
Government of India, 41, Sardar Patel Bhavan,
Sansad Marg, New Delhi. ...Respondents

By Advocate: Shri P.H. Ramchandani

O R D E R (Oral)

(By Hon. Vice Chairman 'A' Shri N.V. Krishnan)

The applicant in this OA has prayed that the benefit of the adhoc promotion given to his juniors by the order dated 4.10.91 (Annexure F) by the respondents, should also be given to him. He has also prayed that he should be given the salary for the period commencing from 4.10.91 when his juniors were given adhoc promotion.

2. The respondents have filed a reply contesting the above prayer.

3. The matter came up today for admission. It appears that the matter relates to the seniority of the Indian Statistical Service. The seniority list that obtained was quashed by the order of this Tribunal in OA 844/86.

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XXXX Against this order, the Union of India preferred an appeal before the Hon. Supreme Court, in which, initially, an interim direction was issued on 24.1.90 to maintain status quo, before the judgement of this Tribunal was delivered. Subsequently, on the further prayer made by the Union of India, the Hon. Supreme Court modified this order by the direction given on 27.8.91. The direction as modified, has been abstracted in impugned Annexure-F order dated 4.10.91. Considering the difficulties of the Union of India, the Hon. Supreme Court observed that it would be just and proper to allow the Government to make promotion on the basis of the seniority list operated prior to the judgement of the Tribunal. The promotion shall be made purely on adhoc basis subject to the result of the appeal and limited to employees in service.

4. Consequent upon this direction, the respondents issued the impugned Annexure-F order dated 4.10.91 giving adhoc promotion to 39 persons mentioned therein. The applicant's case is that in the seniority list which would have remained in force but for its being quashed by the Tribunal, his name should have found place between Sl.No.27: Shri D. Sahoo and Sl.No.8: Shri P.K. Bisht in the list of the officers promoted on adhoc basis on 4.10.91. Hence he seeks promotion from that date.

5. The learned counsel for the respondents pointed out that at the relevant time, the applicant was not in India. He had gone to U.K. on 25.9.91 and

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returned only on 24.10.92. Before his return, the Hon. Supreme Court finally disposed of the appeal by the order dated 24.4.92. In pursuance of that order, the respondents have issued further orders regularising the promotions of various officials including the applicant. He contends that as the adhoc promotion was to be given only to persons who are in service and as by the time, he returned from U.K. the final order of the Hon. Supreme Court have been announced, there is no merit in this OA claiming adhoc promotion.

6. The applicant states that even though he was in U.K., he was entitled to be given proforma adhoc promotion. Further, the promotion given on 4.10.91 which was for one year was subsequently extended by one more year by the order dated 9.10.92 (Annexure-J). He had intimated the respondents by Annexure-1 letter dated 16.12.91 that he would be returning to India in the first week of October 1992, and he had also requested to be promoted on adhoc basis along with his juniors. The applicant therefore, states that he is entitled to the reliefs claimed.

7. We have considered the matter. In so far as the order of the Hon. Supreme Court dated 27.8.91 is concerned permitting promotions on interim basis, that order lapses with the final order of the Hon. Supreme Court issued on 24.4.92. The applicant returned to India much after that date. His contention that he was entitled to adhoc promotion on proforma basis while he was on training does not carry much weight. The rule is that, if one

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is outside the regular line of promotion, he should be given an opportunity to come back to take up the promotion. If such an opportunity is not given, promotion under the next below rule has to be given. We are of the view that it was neither possible to call back the applicant from U.K. to take up the adhoc promotion nor would he himself have been willing to cut short his training in U.K. merely to join on higher post on adhoc promotion.

8. Therefore, the only question is what relief, if any, the applicant is entitled to. It is clear that on the basis of the Hon. Supreme Court's final orders, regular promotion have been arosed on 2.4.93 what would be the basis of seniority. We notice that in the Annexure-F order dated 4.10.91, it has been unambiguously made **clear** that the adhoc promotion will not bestow a claim for regular appointment and the adhoc service would not count for seniority, eligibility for promotion etc. This fully protects the applicant.

9. Nevertheless, the interest of the applicant would have been protected if his juniors who have been given adhoc promotion get any undue benefits out of that promotion. We are, therefore, of the view that the OA itself can be disposed of at this stage with a direction to the respondents.

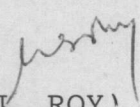
10. Accordingly, we dispose of this OA with a direction to the respondents to ensure that persons junior to the applicant who have been promoted on adhoc basis by the order dated 4.10.91 (Annex-F)

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on the basis of seniority list that obtained before it was quashed by the Annexure R-3 judgement of the Tribunal, do not get any benefit over the applicant either in the matter of seniority or in the matter of being considered for any other appointment etc. In particular, we direct that in case the adhoc service of any of his juniors is considered by the respondents, ^{for any purpose} the same benefit shall be given to the applicant by being deemed to have such adhoc service from the date of the adhoc promotion given to his immediate juniors for consideration.

11. With this direction, the OA is disposed of.
No costs.


'C.J. ROY'
MEMBER (J)
25.4.94

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'N.V. KRISHNAN'
VICE CHAIRMAN (A)
25.4.94