

13

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

...

OA No. 2031/93

New Delhi, this the 12th day of July, 1999

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN (J)
HON'BLE MR. R.K. AHOOJA, MEMBER (A)

In the matter of:

Diwan Chand
EF 605, Sarojini Nagar,
New Delhi-110023.
(By Advocate: Sh. V.S.R. Krishna)

Vs.

Union of India through

1. The Secretary
Deptt. of Personnel & Training
North Block,
New Delhi-110001.
2. The Secretary
Ministry of Defence,
South Block,
New Delhi-110011.
3. Shri R.S. Singh
(now known as R. Sanewal)
Controller of Imports & Exports
Import Policy Cell
Ministry of Commerce
New Delhi.

.... Respondents

(By Advocate: Sh. N.S. Mehta)

O R D E R (ORAL)

BY HON'BLE SHRI R.K. AHOOJA, M(A)

Heard counsel for both the parties.

2. The applicant qualified the Assistants Grade Examination 1977 conducted by the U.P.S.C. and obtained rank No. 344. Sh. R.S. Singh, Resp. No. 3 who like the applicant also belonged to Scheduled Caste secured rank No. 345. The applicant was allocated to the Assistant cadre of the Ministry of Defence whereas Sh. R.S. Singh, Resp. No. 3 was allocated to the Ministry of Commerce. The grievance of the applicant is that though

Sh. R.S.Singh was included in the select list for promotion to the post of Section Officer in 1981, the applicant though senior to Resp. No.3 was placed in the select list for 1983. The applicant thereafter made a number of representations against the combined seniority list of Section Officers prepared by the respondents in 1989 in which he was shown junior to Resp. No.3. His representations were finally rejected by the impugned letter of the respondents dated 5.10.82 Annexure A-1. Aggrieved by this rejection the applicant has now come before the Tribunal seeking a direction to the respondents to include him in the select list of Section Officers for the year 1981 and place his name above that of R.S.Singh and grant him all consequential benefits.

3. The respondents in their reply have stated that the Section Officers' is a decentralised cadre and the officers get their promotion on the basis of vacancies available in their own cadres. Resp. No.3, R.S.Singh was included in the select list of 1981 of the Ministry of Commerce on the basis of the vacancies of Section Officers available in that Ministry. On the other hand applicant's name could be included only in the select list of 1983 on the basis of vacancies available in the Ministry of Defence. On that ground respondents submit that the applicant has no ground for comparing his case with that of R.S.Singh.

4. Having heard the counsel on both sides, and after considering the submissions on record, we are unable to find any merit in the case of the applicant. It is an admitted position that the cadres of the Assistant and

Dw

Section Officers are decentralised cadres. In other words promotions in each cadre have to be confined to its own feeder cadre alone. Therefore, the applicant could not have been promoted to the rank of Section Officer on the basis of vacancies in the Ministry of Commerce except on the exceptional ground that there was a deficiency of eligible persons for promotion to the post of Section Officer in that Ministry.

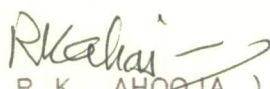
5. The learned counsel for the applicant, however, draws our attention to the letter of the Ministry of Defence dated 6.4.83 which is Annexure R-3 in the reply filed by the respondents. This letter which is addressed to the DOPT states that the names of 4 persons including that of the applicant were inadvertantly left out even though names of their juniors had been included in the select list. On that basis it has also been further stated that the cases of all the 4 Assistants including that of the applicant were being placed before the Departmental Promotion Committee of the Ministry of Defence to assess their fitness or otherwise for appointment to the post of Section Officer. It was contended by Sh. V.S.R.Krishna that this shows that the applicant had not been duly considered for promotion to the post of Section Officer due to the mistake committed by the department and had he been properly considered and included in the select list for 1981 he would have become senior to Sh. R.S.Singh, Resp. No.3.

6. We are not inclined to accept this argument since the aforesaid letter dated 6.4.83 is from the Ministry of Defence and also speaks of the inclusion of


Dr

the name of the applicant viz a viz other directly recruited Assistants of the Ministry of Defence itself. In other words, the case of the applicant alongwith other three of his colleagues whose names had been inadvertantly omitted had to be considered viz a viz their juniors in the Ministry of Defence who had been included in the select list of 1981. The applicant, at no stage, has claimed that he is aggrieved by the selection of his juniors in the Ministry of Defence for promotion to the post of Section Officer. In case the name of the applicant had not been considered in the Ministry of Defence and his junior had been promoted it was open to him to contest his rightful claim for promotion in the Ministry of Defence. Having failed to do so he cannot now at this stage and after 10 years contest this position by challenging the promotion of Sh. R.S.Singh of an entirely different Ministry when the common seniority list of Section Officers has been prepared in 1989 for the purpose of further promotion to the rank of Under Secretary and above.

7. In the light of the above discussion, we find no ground for interference in terms of the relief sought for by the applicant. Accordingly, the OA is dismissed. No order as to costs.


(R.K. AHOOJA)
Member (A)

'sd'


(V. RAJAGOPALA REDDY)
Vice Chairman (J)