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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 2198/93

New Delhi, dated the 11th March, 1994.

Hon'ble Mr. N.V.Krishnan, Vice Chairman(A)
Hon'ble Mr. B.S. Hegde, Member(Judicial)

Shri S.K.Chakravorty,
Staff Car Driver,
O/O the Director of Income Tax(Investigation)
4th Floor, Mayur Bhavan, Connaught Place,
New Delhi.

... Applicant.

(By Shri P.C.Shukla, Advocate)

Versus

1. Union of India-through

Director General of Income Tax
(Investigation)
4th Floor, Mayur Bhavan,
Connaught Place, N/Delhi

2. Secretary, Central Board of
Direct Taxes,
North Block, New Delhi

3. Secretary,
Ministry of Finance,
Dept of Expenditure,
North Block, N/Delhi

... Respondents

ORDER(ORAL)

(Hon'ble Mr. N.V.Krishnan, Vice Chairman(A))

We have heard the learned counsel for the applicant. The main prayer in the O.A. is that the respondents be directed to give in situ promotion to the applicant to the next higher grade of Rs 1200-1800 w.e.f. 1.1.1992 and give all consequential benefits. Reply has been filed by the respondents to the notice issued to them.

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2. The facts are undisputed/are briefly as follows:-

- i. The applicant was appointed as driver by direct recruitment to Group 'C' post by the Dandakarenya Project in 1959. However, he was declared surplus and therefore, he was re-employed on the same post of Staff Car Driver in the Office of the Director General of Income Tax (Investigation) w.e.f. 31.8.1988. The applicant reached the maximum of the scale of Rs 1500 in Jan., 1991.
- ii. It is contended that the Ministry of Finance Office Memo. dated 13.9.91(Ann.A), which came into force on 1.4.1991 provides that atleast one promotion should be given to Group 'C' and Group 'D' employees in the entire career. This will apply to those employees who are directly recruited to Group 'C' and Group 'D' post on the minimum of the pay scale and who have not received even one promotion even ^{in year} one, after reaching the maximum of such pay-scale.
- iii. In the light of this circular, it is contended that the applicant ought to have been given promotion — in situ promotion — from 1.1.1992 based on the circular. It is also pointed out that the benefits of this circular has been extended by the Ann.F memo. issued by the M/O Finance vide dated 25.4.1993, to cases where the person was recruited in one department and later on was transferred or deployed in another department so long as he satisfies the above conditions. However, in addition, it has been stipulated as follows:-

" If a person who was directly recruited to a post in a particular scale of pay and whose pay fixed at the minimum of that scale is subsequently appointed to another post in the same organisation or some/another post in another organisation in the same scale of pay by transfer or otherwise (including deployment after being declared surplus, he may be considered for

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promotion in situ one year after reaching the maximum of the scale of pay provided all his seniors have been promoted."

In otherwords, further stipulation has been given that situ promotion be given after all his seniors have been promoted.

3. Respondents have pointed out in para 4.9 of the reply that this last condition is not satisfied by the applicant because all his seniors have still not been promoted. It is also pointed out that this scheme has since been revised and new scheme has been introduced by the O.M. dated 30.9.93(Ann.R-3) This is made applicable from 1.8.1993. The salient feature of the scheme in respect of Staff Car Driver is that the posts are placed in three categories i.e. Rs 950-1500, Rs 1200-1800 and Rs 1320-2040 in the ratio of 55: 25: 20 . Thus automatically the pay scales provide for promotion avenues. In the circumstances, respondents state~~s~~ that this application has no merit.

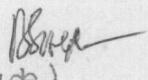
4. We have considered the matter. It is quite clear that when a person, otherwise entitled to the in-situ promotion, is, at the relevant time, in a new department other than the one where he initially joined, concession will be given only if conditions specified in the Ann.F Memo, dated 25.4.1993 are satisfied. The most important additional condition is that all seniors^{should} have also been

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promoted before the individual is considered for situ promotion. This is understandable because if the seniors who are already in the department have not got promotion, an outsider transferred to the Department by redeployment as a surplus person, cannot be given better treatment. It is not disputed that seniors of the applicant in the Directorate General of Income Tax (Investigation) have not promoted. In the circumstances, the claim made in the O.A. cannot be sustained. This O.A. is liable to be dismissed.

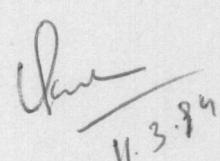
5. We are informed that the applicant has since retired from 31.1.1994. We notice that new scheme vide Ann.R-III has been introduced w.e.f. 1.8.1993. Ld.counsel for the respondents states that the case of applicant would also be considered in the light of Ann.R-III scheme. In the circumstances, we do not find it necessary, to issue further direction in this regard to protect the interest of the applicant.

6. For the aforesaid reasons the O.A. is dismissed at the admission stage.


(B.S. Hegde)

Member (J)

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11.3.94
(N.V. Krishnan)

Vice Chairman (A)