

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
 PRINCIPAL BENCH  
 NEW DELHI  
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D.A.No.2280/93.

Date of decisions 30-8-95

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

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri S.P.S. Dhaka,  
 S/o Shri Baru Singh,  
 R/o Quarter No. 573,  
 Sector IV, R.K. Puram,  
 New Delhi-110 032.

.. Applicant

(By Advocate Shri B.B. Raval)

versus:

1. Union of India  
 Through the Secretary,  
 Ministry of Agriculture,  
 Department of Agriculture and  
 Cooperation, Govt. of India,  
 Krishi Bhawan, New Delhi.
2. The Secretary,  
 Ministry of Personnel, Public  
 Grievances and Pensions,  
 Department of Personnel and  
 Training, Govt. of India,  
 North Block, New Delhi.
3. The Secretary,  
 Union Public Service Commission,  
 Government of India,  
 Dholpur House,  
 Shahjehan Road,  
 New Delhi-110 011.
4. Shri S.P. Kapoor,  
 Extension Officer,  
 Directorate of Extension,  
 Ministry of Agriculture and  
 Cooperation, Govt. of India,  
 West Block No. 8, R.K. Puram,  
 New Delhi-110 066.

.. Respondents

(By Advocate Shri V.S.R. Krishna)

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Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The applicant is aggrieved by the Memorandum dated 27th August, 1993 (Annexure 'A') in which he was informed that the proposal of Respondent No. 1 for convening a review DPC for refixing his seniority in the

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grade of Extension Officer (EO) has been turned down by Respondent No.3 (UPSC).

2. The undisputed facts in this case are as follows.

2(i) The applicant and one Shri S.P.Kapoor, Respondent No.4, were initially appointed as direct recruit Assistant Extension Officers (AEO) through UPSC with effect from 19.3.1982 and 26.3.1982 respectively.

(ii) The applicant was placed senior to Shri S.P.Kapoor in the selection. As per the recruitment rules for selection to the next higher post of Extension Officer (E.O.), A.E.Os with 5 years regular service and possessing a degree in Agriculture were eligible to be considered. When a vacancy arose in the post of E.O. On 21.5.1985 both these officers were not eligible to be considered for promotion. However, Shri Kapoor, who was earlier officiating in the grade of AEO on promotion basis in the Directorate of Extension w.e.f. 19.1.1976 to 25.3.1982 was allowed to count this service with the approval of Department of Personnel and Training, Respondent No.2. Shri Kapoor was thus appointed as E.O. on 3.7.1985 (Annexure 'D'). Thereupon, the applicant represented that he being senior to Shri Kapoor in the grade of AEO, he should also have been considered to the post of E.O. Later, his case was also referred to Department of Personnel & Training, for relaxing his qualifying service from 5 years to 3 years in his favour as a one time measure (Annexure 'E') and he was subsequently appointed as E.O. with effect from 5.6.1986. (Annexure 'F'). The applicant had made another

representation to the department to restore his seniority in the grade of E.O. vis-a-vis Shri S.P.Kapoor, who was junior to him. To this, the Department had replied by Memorandum dated 15.1.1993 that appropriate action on the guidelines of Department of Personnel and Training had been initiated to constitute a Review DPC (Annexure A-8). Further to this, the applicant was informed by the impugned Memorandum dated 27th August, 1993 that the UPSC has not agreed to the proposal.

3. Shri B.B.Raval, learned counsel for the applicant, submitted that the impugned order is illegal and against the guidelines and norms for constituting a DPC as pointed out by Respondent No.1 and accepted by Respondent No.2. Hence, he submits that a Review DPC may be ordered to be convened for considering the promotion case of the applicant to the post of E.O. along with Shri Kapoor, who has his junior.

4. The Respondent No.1, i.e. Ministry of Agriculture, Department of Agriculture and Cooperation have filed a reply on behalf of the Union of India. In the reply, they have stated that the applicant's representation dated 22.10.1990 (Annexure 'G') had been examined in consultation with Department of Personnel and Training, Respondent No.2, who had opined that the applicant should have been considered along with Shri S.P.Kapoor for promotion to the post of E.O. and at their suggestion, they had referred the matter to the UPSC- Respondent No.3, who had, however, not agreed to the proposal. Respondent

No.3- UPSC has not filed any reply in this case and their right to the same was forfeited vide order dated 5.8.1994 after they failed to avail several opportunities given to them to file their reply. To a specific query to Shri V.S.R. Krishna, learned counsel for the respondents at the time of hearing, his response was that in the light of the stand taken by the UPSC mentioned in the impugned memorandum dated 27.8.1993(Annexure 'A'), respondents were also adopting the same stand in this case.

5. We have carefully considered the arguments of both the learned counsel, the pleadings and the records in the case.

6. It is clear from the above facts that at the time of promotion of Shri S.P.Kapoor, who is admittedly junior to the applicant as AEO, to the post of E.O. w.e.f. 3.7.1985 he did not also possess the required qualification, namely, 5 years experience. Shri Kapoor's previous officiating service rendered as AEO had, therefore, been taken into account in relaxation of the rules, as he was appointed as a direct recruit AEO with effect from 26.3.1982 only. The Department of Personnel and Training in their note dated 22.12.1992 (page 63-64) have correctly observed that whenever the junior is considered for promotion, all his seniors should also have been considered, irrespective of whether they completed the requisite number of years of service, provided they have completed the probation period. They had, therefore, recommended that keeping in view the facts and circumstances of the case, there is a case for holding a Review

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17

DPC to consider both Shri Kapoor as well as the applicant in respect of the promotion post of E.O. held previously in May, 1985. The Respondent No.3, UPSC, has not given any reason for dis-agreeing with the views given by the Department of Personnel and Training, which is according to the relevant guidelines.

6. In the facts and circumstances of the case, since, admittedly, the applicant is senior to Shri Kapoor, for whom the service conditions were relaxed when he was appointed as E.O. with effect from 3.7.1985, without considering the claim of the applicant at that time, this is a fit case for holding a review D.P.C. Accordingly, the impugned Annexure 'A' order dated 27th August, 1993 is hereby quashed and set aside.

7. The J.A. is allowed. The Respondents are directed to hold a Review of the DPC held in May, 1985, wherein the applicant should also be considered along with Shri Kapoor for promotion to the post of E.O., in which Shri Kapoor had been earlier promoted with effect from 3.7.1985. In case, the Review DPC finds the applicant suitable to be promoted to the post from the earlier date, he shall be entitled to all consequential benefits. No costs.

8. A copy of this order may be placed in DA 382/1993.

Lakshmi Swaminathan  
(Smt. Lakshmi Swaminathan)  
Member (J)

N.V. Krishnan  
(N.V. Krishnan)  
Vice Chairman (A)