

Central Administrative Tribunal
Principal Bench

O.A. 302/92

New Delhi this the 2nd day of December, 1998

15

Hon'ble Smt. Lakshmi Swaminathan, Member (J).
Hon'ble Shri K. Muthukumar, Member (A).

B.K. Khurana,
S/o Shri Mohan Lal Khurana,
Private Secretary,
Department of Science & Technology,
Technology Bhawan,
New Mehrauli Road,
New Delhi.

... Applicant.

None present.

Versus

Union of India through

1. Secretary,
Department of Science & Technology,
Technology Bhawan, New Mehrauli Road,
New Delhi.

2. Secretary,
Department of Personnel & Training,
North Block,
New Delhi.

... Respondents.

By Advocate Shri K.C.D. Gangwani, Sr. Counsel.

O R D E R

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

The applicant states that his grievance in this case is that his ad-hoc service in Grade B of Central Secretariat Stenographers Service (CSSS) from 1.5.1982 to 14.3.1991 has not been counted for purposes of his seniority in the above grade by the respondents which has adversely affected his promotion to the next higher grade in service. He has also submitted that the representations made by him, including the representation dated 23.12.1991 (Annexure A-6), for regularisation of his ad-hoc appointment have not been replied to.

js

16

✓ 2. We have seen the pleadings, heard Shri K.C.D. Gangwani, learned Senior Counsel for the respondents, and also perused the written submissions filed by Shri M.R. Bhardwaj, learned counsel for the applicant.

3. The brief facts of the case are that the applicant joined service on 6.2.1973 as a direct recruit Stenographer Grade 'C'. He was promoted as Sr. P.A. on ad hoc basis (Grade 'B') w.e.f. 1.5.1982 which service was extended from time to time till he was regularised w.e.f. 15.3.1991. According to him, he had completed 8 years of regular service in Grade 'C' in February, 1981 and had thus become eligible to be included in the select list Grade 'B' from 1982. He is aggrieved by the Notification dated 11.6.1991 in which it has been stated that the applicant, who is a Grade 'C' Stenographer of the CSSS cadre, is appointed as Sr. P.A. (Grade 'A' and 'B' merged), w.e.f. 15.3.1991. In the written submissions, learned counsel for the applicant has submitted that the applicant having continued^{un} interruptedly on ad hoc basis for 9 years which has been followed by regularisation in accordance with the Rules, the date of his appointment in Grade 'B' should be pushed back to 1.5.1982 when he was appointed on ad hoc basis in that grade. This O.A. has been filed on 8.2.1993 seeking a direction to the respondents to count his ad hoc service as Grade 'B' in the CSSS for promotion to the next higher grade.

4. The respondents in their reply have opposed the relief prayed for by the applicant. They have taken a preliminary objection that the application suffers from laches and delay as the cause of action, according to them, had arisen as early as ~~in~~ 1982. They have also submitted that the applicant was given promotion in 1982 only on ad hoc basis.

18/

17

Apart from limitation, Shri K.C.D. Gangwani, learned counsel, has also submitted that on merits the applicant has no case. He has submitted that the applicant cannot seek seniority above other Grade 'B' Stenographers who have been appointed/promoted on regular basis on dates prior to 1.5.1982. Learned counsel has submitted that if the applicant's case is that he wants seniority and promotion w.e.f. 1.5.1982, the application should be dismissed for non-joinder of necessary parties as persons who are likely to be affected have not been made parties. He has submitted that the Stenographers' cadre is a Centralised Cadre. The Grade 'B' (now merged Grade 'A' and 'B' since 1.1.1986) is one of the four grades of the CSSS. Promotion to Grade 'B' is from Grade 'C' Stenographers with 8 years service, as provided under the relevant Recruitment Rules. He has submitted that at the time when the applicant became eligible for appointment as Grade 'B' of the CSSS, there were no vacant or reserved posts in that grade and he was appointed to that grade in the Ministry of Science and Technology only after dereservation of the reserved vacancies. Shri K.C.D. Gangwani, learned counsel, has very vehemently submitted that the applicant cannot be promoted from 1982 when he was much junior to others in the grade in the seniority list and that is why he was only given an ad hoc promotion to Grade 'B' in 1982. He has also submitted that the nodal Ministry for the CSSS is the Department of Personnel and Training. He has, therefore, submitted that the applicant cannot get benefit of his fortuitous promotion by being in a particular Ministry where he had already got the ad hoc promotion which cannot be counted for purposes of seniority vis-a-vis others regularly promoted in 1982. The respondents have submitted that it is not only the applicant in Grade 'C' who

js/

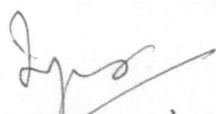
18


has completed more than 8 years service but there are others who were senior to him who have also to be considered for promotion to Grade 'B'.

5. We have carefully perused the pleadings and the submissions made by the learned counsel for the respondents and written submissions of the learned counsel for the applicant.

6. In the facts and circumstances of the case, both the preliminary objections raised by the respondents are sustained. Apart from this, we do not also find any merit in this case. The applicant was appointed on ad hoc basis in the higher post in 1982 on cadre seniority basis with one of the participating Ministries and not on Centralised basis. The respondents have stated that although the ad hoc appointments are made for short term duration, but sometimes they have been continued for some length of time when other vacancies have fallen vacant. Admittedly, the applicant is not the seniormost Grade 'C' Stenographer in CSS. It is also not the case of the applicant that any person junior to him as Group 'C' Stenographer has been promoted on regular basis prior to the promotion order promoting him to Grade 'B' w.e.f. 14.3.1991. It is settled law that promotion by way of ad hoc or stop gap arrangements made due to administrative exigencies not according to the Rules cannot count towards seniority.

7. In the result for the reasons given above, we find no good ground to interfere in the matter. The application fails and is dismissed. No order as to costs.


(K. Muthukumar)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)