

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

DA 1105/93

16

New Delhi this the 8th day of January, 1999.

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri N. Sahu, Member (A)

In the matter of

Shri G.S. Sharma
S/O Late Shri Jamuna Prasad,
Resident of
B-18/2A/S-II/DIZ Area,
Peshwa Road, New Delhi-1

Employed as:

Professional Assistant (Statistics)/
Statistical Assistant,
Statistics Directorate, Sewa Bhavan,
R.K.Puram, New Delhi-110066

... Applicant

(By Advocate Shri K.L.Bhandula)

Vs.

1. Union of India,
through the Secretary to the Govt. of
India, Ministry of Water Resources,
Shram Shakti Bhavan, New Delhi-1
2. The Chairman,
Central Water Commission,
Sewa Bhavan, R.K.Puram,
New Delhi-66

... Respondents

(None for the respondents)

ORDER (ORAL)

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

The applicant is aggrieved by the rejection of his representation by letter dated 12.3.1993. The applicant in his representation dated 12.11.90/ requested the respondents to extend the same benefits which have been given to the applicants in DA 1783/1988 by the Tribunal's order dated 5.9.90, but this was rejected.

2. The applicant claims that he had been working as Statistical Assistant on ad hoc basis w.e.f. 30.3.78 for a period of about 11 years before he was regularised in that post. He claims that the period of ad hoc service should be

82

counted for the purpose of seniority as done in the case of his juniors S/Shri Harpal Singh and Shital Das who have been given the benefits by the Tribunal by order dated 5.9.90 in OA 1783/1988. Admittedly, this judgement has become final and binding and has been implemented by the respondents with regard to the applicants, but as mentioned above, the grievance of the applicant is that same benefits have not been extended to him. In another judgement of the Tribunal in Jasvinder Singh Vs. UOI & Ors (OA 1741/92) by order dated 31-3-93, the Tribunal had also allowed ^{the P} application with a direction to the respondents to give benefit of continuous officiation of the applicant and also to count his seniority for the purpose of eligibility for promotion to the next higher grade with effect from the date of his ad hoc promotion i.e. 29.8.1977. The respondents in their reply have stated that the applicant was promoted as Statistical Assistant(SA) on purely ad hoc basis w.e.f. 30.3.78 wherein it has been clearly stated that such appointment will not confer any right on him for a regular appointment or to count his ad hoc service for the purposes of seniority in the higher grade.

3. Subsequently another person, Shri B.D. Verma, also filed OA 437/89 in the Tribunal claiming similar benefits as given by order dated 5.9.90, which was rejected by the Tribunal. Shri Bhandula, learned counsel for the applicant has submitted that on appeal filed by Shri Verma against the UOI in the Hon'ble Supreme Court(Civil Appeal No. 7237 of 1994), the Supreme Court by order dated 7.12.1995 set aside the Tribunal's order in OA 437/1989(Copy placed on record). Shri Bhandula, learned counsel for the applicant has further submitted that the applicant has retired from service w.e.f. 30.4.1995. He relies on the judgement of the Supreme Court in B.D. Verma's case (Supra) as like Shri Verma, the applicant was also senior to S/Shri Shital Das and Harpal Singh in the seniority list.

of 1.1.1986 (copy placed on record) in the cadre of Statistical Assistants/Professional Assistants (Statistics)/Research Assistants (Statistics) in the Central Water Commission. We find from this list that the applicant's name is given at Serial No. 32 whereas S/Shri Shital Das was placed at Serial No. 34 and Sh.Harpal Singh at Serial No.38. Shri B.D.Verma is shown at Serial No.22. In other words, Shri Verma and the applicant were shown senior in the combined seniority list of SAs/PAs/RAs as on 1.1.1986 to the applicants in OA 1783/1988. Learned counsel for the applicant submits that following the judgement of the Supreme Court dated 7.12.1995, the application may be allowed as he is a similarly situated person and the respondents may be directed to count the uninterrupted ad hoc service of the applicant as SA w.e.f. 30.3.78 for the purpose of seniority.

4. Although this case is listed at Serial No.4 in today's cause list, none has appeared for the respondents even on the second call though we have waited till 3.00PM. We also notice that on the previous two days, namely, 5.1.99 and 6.1.99, none had appeared for the respondents. As this is a 1993 case, we have, therefore, heard the learned counsel for the applicant and seen the reply filed by the respondents. The Respondents have submitted that the judgements of the Tribunal in Jasvinder Singh's case and Harpal Singh's case (supra) are not applicable to this case, as these judgements are judgement in personam and not the judgements in rem. They have, therefore, submitted that the applicant is not entitled to any relief.

5. We have carefully considered the pleadings and the submissions made by the learned counsel for the applicant.

6. As mentioned above from the seniority list of officers borne in the cadre of SAs/PAs/RAs in the Central Water Commission

82

(9)

as on 1.1.1986, we note that Shri B.D. Verma, Sh. Jasvinder Singh and the applicant are shown senior to S/Shri Sital Das and Harpal Singh. The Tribunal by order dated 5.9.90 in OA 1783/90 had allowed the application and directed the respondents to count their ad hoc services leading to regularisation for the purposes of seniority which has been followed and implemented by the respondents. The same appears to be in the case filed by Shri Jasvinder Singh (OA 1741/92). It is further noted that although the Tribunal had rejected a similar claim of Shri Verma on his filing the application (OA 347/89), on appeal filed by him in the Hon'ble Supreme Court, the Court has held as under :-

"The only question which falls for consideration in the appeal is whether the Tribunal was justified in denying to the appellant the benefit which has been extended to Harpal Singh, Sital Das and Jasvinder Singh in the earlier judgements of the Tribunal even though the appellant and the said officers were similarly situated and the appellant was actually senior to them in the cadre of Senior Computers. Having given the benefit of counting the period of their uninterrupted ad hoc service as Research Assistants for the purpose of seniority in the cadre of Research Assistant to Harpal Singh, Sital Das and Jasvinder Singh the Tribunal could not have denied the same benefit to the appellant and could not have treated the case of the appellant in a manner different from the cases of those officers."

In the facts and circumstances of the case, the judgement of the Supreme Court in Verma's case (Supra) is fully applicable and binding on the facts in the present case.

7. In the circumstances of the case, the OA is allowed and the respondents are directed to count the period of uninterrupted ad hoc service of the applicant as Research Assistant w.e.f. 30.3.78 till the date of his regularisation with effect from 7.1.85 for the purpose of giving him seniority in that cadre, as has been done in other similar cases of S/Sh. Harpal Singh, Sital Das and Jasvinder Singh. Necessary action shall be taken

Yours

within three months from the date of receipt of a copy of this order and the applicant shall be entitled to consequential benefits in accordance with law/Rules, including re-fixation of his retiral benefits.

60
2

No order as to costs.

Kanayamhond
(N. Sahu)
Member (A)

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

sk