

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH AT NAINITAL

THIS THE 19TH DAY OF APRIL, 2001

Original Application No.945 of 1996

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN:K.K.SRIVASTAVA, MEMBER(A)

Laxman Singh Gussain
a/a 49 years, son of Sri A.S.Gussain
R/o 87, Saket Colony,
Dehradun.

... Applicant

(By Adv: shri K.C.Sinha)

Versus

1. Union of India,
Department of Science & Technology
Technology Bhavan, New Mehrauli
Road, New Delhi.
2. Surveyor General of India
Dehradun.

... Respondents

(By Adv: Shri R.C.joshi)

O R D E R (Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this application u/s 19 of A.T.Act 1985 applicant has prayed that orders dated 5/9.8.1994 and 8/13.3.1996 communicated to the applicant on 15.4.1996 be quashed. It has been further prayed that a direction be issued to step up the pay of the applicant equal to the pay of his junior R.K.Chamoli giving all ~~consequential~~ benefits by fixing the correct pay and other consequential benefits have also been claimed.

The facts in short giving rise to this application are that applicant Laxman Singh Gussain was appointed as Hindi Translator on 1.6.1972, whereas, R.K.Chamoli was appointed as Hindi Translator on 24.7.1972. Admittedly, R.K.Chamoli was junior to the applicant.

In the seniority list the position was correctly depicted. Applications were invited sometime in 1972 for appointment as Hindi Officer General Central Services Class II Gazetted on adhoc basis for a period of six months. However, by order dated 2.5.1974 R.K.Chamoli Hindi Translator was appointed as Hindi Officer in the office of Surveyor General for a period of six months w.e.f. 17.3.1973. It may be noted here that rules were framed under Art.309 of the Constitution of India for recruitment to the post of Hindi Officer on 10.7.1978. However, Sri R.K.Chamoli was continued as Hindi Officer on adhoc basis upto 30.9.1979. By order dated 19.4.1979 R.K.Chamoli was appointed to officiate as Hindi officer on regular basis w.e.f. 2.2.1979. Against this order it is claimed that applicant raised objection, on which order was passed on 19.10.1979 cancelling the order dated 19.4.1979 and extending the adhoc continuation of R.K.Chamoli upto 30.9.1979. By order dated 29.4.1981 applicant L.S.Gussain was appointed to officiate as Hindi Officer. By order dated 13.5.1981 his pay was fixed at Rs650/- per month. The applicant did not raise any objection against the fixation of pay.

R.K.Chamoli was reverted to the post of Hindi Translator w.e.f.30.9.1979 by order dated 13.5.1981. By another order of 14.6.1982 R.K.Chamoli and Jagdish Prasad Naithani were again appointed to officiate as Hindi Officer w.e.f. 22.4.1982. By a subsequent order dated 29.1.1986 ^{applicant} ~~applicant~~ R.K.Chamoli and Jagdish Prasad Naithani were appointed on substantive capacity as Hindi officer with effect from the dates mentioned against their names. The applicant was appointed w.e.f. 18.4.1983 whereas R.K.Chamoli was appointed w.e.f. 28.11.1985. After this appointment pay

fixation was done. The pay of the applicant was fixed at 2600/- whereas pay of R.K.Chamoli was fixed at 3125/-. Aggrieved by this applicant filed objections for removing the anomaly in fixation of pay which was rejected by the impugned order mentioned above, aggrieved by which the applicant approached this Tribunal.

Counter affidavit has been filed by the respondents resisting the claim of applicant. It has been stated that the pay of R.K.Chamoli was correctly fixed in accordance with Order 7 to Article 156-A of C.S.R taking into account his past services as Hindi Officer on adhoc basis from 17.3.1973 to 13.9.1979. it has also been stated that applications were invited for appointment as Hindi officer on adhoc basis but the applicant did not apply for the post. Whereas R.K.Chamoli and other Hindi Translators applied for appointment. The representation of the applicant has been considered and rejected for the reason that anomaly did not arise as a result of application of F.R.22-C keeping in view the instructions as contained in O.M. no.4/7/92-Estt.(Pay-I) dated 4.11.1993.

Rejoinder affidavit has been filed, in para 13 of which (containing reply of para 18 of the counter affidavit), it has not been denied that the applicant did not make any application for appointment as Hindi Officer though R.K.Chamoli and many others made applications seeking appointment as Hindi officer.

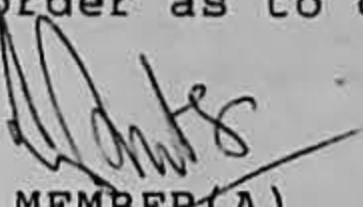
We have considered the submissions of the learned counsel for the parties and also perused the record. The difference in pay of applicant and R.K.Chamoli is on account of the fact that R.K.Chamoli was given six increments for the period he worked as Hindi officer on adhoc basis during the period 17.3.1973 to 30.9.1979 for which he was entitled under rules. Thus,

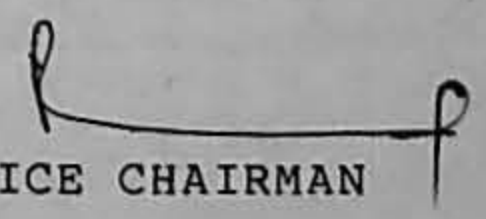


R.K.Chamoli was ^{already} getting higher amount ^{of} pay as Hindi Translator and consequently on promotion to the post of Hindi officer though he is junior to the applicant his pay has been fixed for a higher amount. The respondents considered the objection of the applicant and has rightly taken the view that the applicant is not entitled for any relief as the anomaly is not a direct result of the application of Fundamental rule 22-C. The applicant can blame himself as he did not apply for appointment as Hindi Officer though all other Hindi Translators applied for the same. The applicant cannot argue now that out of many others only R.K.Chamoli was selected for appointment on adhoc basis. No other person including applicant raised any grievance against appointment of R.K.Chamoli as Hindi Officer. The applicant made representations after a long time when R.K.Chamoli has already served as Hindi Officer.

In these facts and circumstances we do not find any error in the order dated 5.8.1994(Annexure A-16) and order dated 15.4.1996(Annexure A-19).

The application has no merit and is accordingly rejected. No order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated: 19th April, 2001

Uv/