

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 16th day of April 2002

Original Application no. 756 of 1998.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman
Hon'ble Maj Gen K.K. Srivastava, Member (A)

1. Sri R.P. Mishra, S/o Sri L.P. Mishra,
R/o CWTC, Patewara, Nai Bazar, Varanasi.
2. Sri B.D. Chaturvedi, S/o Sri K.N. Chaturvedi,
Assistant Director, Service Centre, Varanasi.
3. Sri A.B. Singh, S/o Late R.P. Singh,
C.T.O. Service Centre, Varanasi.
4. Sri S.C. Mathur, S/o late Sri R.C. Mathur,
C.T.O. Service Centre Varanasi.
5. Sri N.L. Ram, S/o late Sri Paltan Ram,
CTO, ATC Ambedkar Nagar, Deoria.
6. Sri Raj Karan, S/o late Munni Lal,
CTO ATC Marui, Varanasi.
7. Sri R.D. Dubey, S/o late Sri B.D. Dubey,
CTO ATC Bhiskuri, Mirzapur.
8. Sri Komal Singh, S/o late Sri R.D. Singh,
CTO CWTC Nai Bazar, Sonebhadra.
9. Sri K.L. Gupta, S/o Sri H.N. Gupta,
C.T.O. CWTC Ramnagar, Varanasi.

... Applicants

By Adv : Sri B.N. Chaturvedi

V E R S U S

1. Union of India through Secretary,
Textile Ministry, New Delhi.
2. Development Commissioner (Handicraft),
Office of the Development Commissioner (Handicraft)
West Block No. 7, R.K. Puram, New Delhi.

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3. Additional Development Commissioner (Handicraft),
West Block No. 7, R.K. Puram, New Delhi.

... Respondents

By Adv : Sri A. Sthalekar

O R D E R

Hon'ble Maj Gen K.K. Srivastava, Member (A)

In this OA filed under section 19 of the A.T. Act, 1985, the applicants have prayed that respondents be directed to provide equal treatment of confirmation/regularisation, seniority, increments and promotion etc at par with their counterparts Handicrafts Promotion Officer (in short HPOs) retrospectively since ~~the date~~ their counterparts were given the benefits in question. They have also prayed for direction to the respondents to restore the group of the applicants from group C to Group B scale because of the pay scale. In addition they have also prayed that the respondents be directed to maintain one and common seniority list on All India basis particularly in respect of applicants Carpet Training Officers (in short CTO) who were appointed as Junior Field Officers (in short JFOs) as was the case in respect of their counterparts HPOs.

2. The facts giving rise to this OA, in short, are that there are numbers of Carpet Weaving ⁱⁿ _{in} training centres, Advance Training Centres and marketing and service extension centres spread all over the country under respondent no. 2 i.e. Development Commissioner. All the applicants were appointed as JFOs like their counterparts i.e. HPOs. The recruitment of applicants as well as HPOs has been made with a single advertisement under single and common recruitment

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rules and all were initially appointed as JFOs. Till 1.3.1978 there was no difference between CTOs and HPOs. However, the applicants have been discriminated against HPOs by order dated 15.2.1978. Those JFOs who were working at Carpet Training Centres were redesignated as CTOs by downgrading their pay scale from Rs. 550-900 (group 'B') to Rs. 550-800 (group C) w.e.f. 1.3.1978 while other JFOs working in otherwings of the department i.e. Marketing and Service Extension Centres, Headquarters and Regional Office etc remained as JFOs in same pay scale and same group i.e. Rs. 550-900 (group B). By another order dated 4.6.1979 these JFOs working in other wings of the department were redesignated as HPOs with stipulation that services rendered by the HPOs in All India Handicraft Board (now office of Development Commissioner) will count for all purposes including seniority, increments, confirmation etc in the post of HPOs. Aggrieved by this decision applicants represented to respondent no. 2 seeking parity. The applicants filed OA no. 560 of 1992 when their grievance was not redressed. The respondents were directed by order of this Tribunal dated 9.2.1993 in OA 560/1992 to decide the representation of the applicants. Consequently the respondents restored the pay scale w.e.f. 1.3.1978 vide order dated 16.5.1997 but other consequential benefits were denied. The applicants represented on 8.7.1997 and again on 12.1.1998 to provide all other consequential benefits but respondents have not taken any decision.

3. Heard Sri B.N. Chaturvedi learned counsel for the applicant and Sri Amit Sthalekar learned counsel for the respondents.

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4. Sri B.N. Chaturvedi, learned counsel for the applicant submitted that the applicants CTOs and their counterparts HPOs were originally recruited as JFOs and prior to 1.3.1978 both were getting equal treatments in respect of benefits of service. The respondents are discriminating the applicants from HPOs which is arbitrary and illegal. The issue of discrimination between CTOs and HPOs is being agitated since 1.3.1978 but the respondents have partly accepted the parity in pay scale only retrospectively since 1.3.1978 by order dated 16.5.1997 and have denied applicants other benefits such as regularisation/confirmation, seniority and promotion etc which has been given to HPOs.

5. The learned counsel for the applicant submitted that the CTOs and HPOs are working under the same employer and possess the same qualification. Since the feeder cadre is common the applicants fully deserve next promotion as Assistant Director which is being given to HPOs. Since, the pay scale of applicants who are CTOs has been restored to Rs. 550-900 (Rs. 1640-2900) vide order dated 16.5.1997 retrospectively w.e.f. 1.3.1978 there is no justification for the respondents to treat CTOs differently than HPOs. The applicants were appointed with their HPOs counterparts under a single advertisement for the same post of JFO under same and one recruitment rules with common appointment letters and therefore they are entitled to one and common seniority on All India basis. Treatment of separate seniority list w.e.f. 1.3.1978 is absolutely arbitrary, illegal and unjustified.

6. The learned counsel finally, submitted that the recruitment rules for CTOs and HPOs are still common.

During 1978 no option was given to the applicants to opt for marketing line and therefore the action of the respondents is not in accordance with law. The claim of the applicants is fully covered with the principle laid down by Hon'ble Supreme Court by order dated 13.09.1994 in Civil Appeal no. 3009 of 1989, Sushil Kumar Sehgal Vs. Union of India & Ors and also by order of this Tribunal Hyderabad Bench dated 28.9.1995 in O.A. no. 1130 of 1995 VVS Surya Narain Vs. Union of India & Ors. Therefore, the applicants are entitled to relief sought for. The posts of JFOs are transferable from Carpet Scheme to Marketing Scheme and vice Versa as was done in case of Sri B.P. Rawat during December 1975 when Sri Rawat was transferred from Marketing Scheme to Carpet Scheme.

7. Sri Amit Sthalekar, learned counsel for the respondents submitted that Development Commissioner (Handi-crafts) earlier known as All India Handicraft Board recruited 87 JFO on adhoc basis during the period from 1975 to 1977 of which 75 JFO were recruited under Carpet Scheme exclusively and remaining JFOs under Marketing Scheme exclusively for appointment in Marketting centres only. The post of JFO under the carpet scheme was redesignated as CTO in lower grade of Rs. 550-800 vide respondent's order dated 15.2.1978. The applicants alongwith other JFOs recruited under Carpet Scheme were given an option to accept redesignated post of CTO or to resign if one was unwilling. The applicants did not resign and accepted the redesignated post. They cannot agitate now after a lapse of 20 years and OA is grossly time barred. We would like to observe here itself that we do not agree with this submission of learned counsel for the respondents and since the old pay scale of the

— applicants was restored by order dated 16.5.1997 retrospectively w.e.f. 1.3.1978 the applicants filed this OA on 15.5.1998 seeking relief in respect of consequential service benefits well within the period of limitation under section 21 of A.T. Act, 1985. The OA is in no case barred by period of limitation.

8. Sri Amit Sthalekar, further submitted that the issue of redesignation of the post is also time barred as held by this Tribunal in its judgment dated 20.8.1992 in T.A. no. 138 of 1987 and 232 of 1987 filed by Sri R.K. Rastogi and Sri Krishna Kumar respectively.

9. The respondents in their counter affidavit have denied any discrimination caused to the applicants. The learned counsel submitted that the applicants are eligible to be considered for the post of Assistant Director (A&C) and not against the post of Assistant Director (H) as both belong to different streams in the Department. The applicant's claim that one Shri B.P. Rawat JFO was transferred from Marketing side to Carpet Training Centre Raja Talab (UP) vide ~~interchangeable~~ order dated 11.12.1975 and therefore the posts are ~~interchangeable~~ is not correct. ~~xxxxxxxxxxxxxx~~ Sri Rawat was transferred from Marketing Scheme to Carpet Scheme as a temporary arrangement and Sri Rawat never objected or represented against his shifting from Marketing Scheme to Carpet Scheme.

10. Sri Amit Sthalekar finally submitted that the case law referred to by the applicants has no application in the

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instant case. The posts of HPOs and CTOs fall under different schemes and the grounds taken by the applicants are wholly misconceived.

11. We have considered the submissions of the learned counsel for the parties and perused records. Principal Bench of this Tribunal has already resolved the controversy by its order dated 4.2.2002 in OA 173 of 1993. The Principal Bench of this Tribunal in Para 5 of the order dated 4.2.2002 has observed as under :-

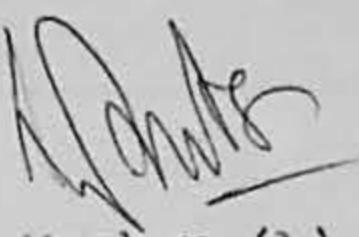
"In so far as the extension to applicants of the benefits granted to S/Shri Sehgal Suryanarayana and Jana are concerned, they were appointed as JFOs under Marketing Scheme and were later redesignated as Handicrafts Promotion Officers. Respondents in their reply have stated that the JFOs in Marketing Scheme later redesignated as Handicrafts Promotion Officer ~~from~~^{form} a separate cadre from JFOs in Carpet Training Scheme, later designated as Carpet Training Officer. It is also stated by respondents that there is no common seniority list amongst the two sets of Officers, and the seniority list in respect of CTOs have been held valid by CAT Principal Bench in OA No. 275/85 and judgment dated 11.4.97 in which names of present applicants occupy various places. No cogent materials have been furnished by applicants to rebut the aforesaid averments. Under the circumstances, the applicants cannot claim to be identically placed as S/Shri Sehgal, Suryanarayana and Jena and are therefore not entitled to the relief granted to them."

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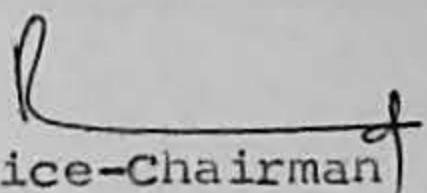
12. We are in respect argeement with the decision dated 4.2.2002 in OA no. 173 of 1999 of Principal Bench of this Tribunal which is squarely applicable in this case.

13. In the facts and circumstances we have no good ground to interfere and the OA is accordingly dismissed.

14. There shall be no order as to costs.



Member (A)



Vice-Chairman

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