

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1491 of 2001

Allahabad this the 08th day of April, 2002

Hon'ble Mr.Justice R.R.K. Trivedi, V.C.  
Hon'ble Mr.C.S. Chadha, Member (A)

K.C. Saroj, Son of Shri Ram Kishore, resident of  
S.F.I Jyoti Apartment, 1 N.K. Mukerji Road, Allahabad  
presently posted as Registrar/D.R.T. Allahabad.

Shri S.D. Kapoor, Applicant  
By Advocate Shri G.P. Agarwal

Versus

1. Union of India through the Secretary, Ministry of Defence, Govt. of India, New Delhi.
2. Union of India through the Secretary, Department of Personnel and Training, Govt. of India, New Delhi.

Respondents

By Advocate Shri V.V. Mishra

O R D E R ( Oral )

By Hon'ble Mr.Justice R.R.K. Trivedi, V.C.

By this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to hold review D.P.C. for considering the promotion of the applicant from the due date i.e. 26.11.87. It has also been prayed to direct the respondents not to treat any period dies-non as the withdrawal of resignation is in relaxation of Rule 26 of C.C.S. (Pension)Rules and the applicant may be given all consequential benefits.



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2. The facts in short are that the applicant was working as Civilian Staff Officer on officiating capacity w.e.f. October 5, 1987. In the seniority list, he was at serial no.14 of the list of ad hoc appointees as Civilian Staff Officer. The applicant opted to go as Deputy Regional Director in the Employees State Insurance Corporation, New Delhi. The applicant was allowed and he resigned from the post of Civilian Staff Officer w.e.f. 12.02.1992. The applicant, however, changed his mind and requested the department for his come back. He made an application for this purpose, which was allowed by order dated 18.10.93(annexure-8). The order reads as under;

"The competent authority is pleased to accept the request of Shri K.C. Saroj for withdrawal of his resignation in relaxation of C.C.S. (Pension) Rules, 1972 and appoint him in his substantive grade in the AFHQ Civil Service with effect from the date he rejoins the duty.

2. This order shall be deemed to include the condonation of interruption in service subject to the condition that the period from 12.02.92(F/N) to the date on which Shri K.C. Saroj rejoins duty in his substantive grade will be treated as dies-non i.e. it shall not count as qualifying service for promotion and for any other purpose. However, the period of past service rendered in AFHQ Civil Service, shall be counted as qualifying service. Accordingly Shri K.C. Saroj is hereby directed to report for duty in this office immediately."

3. The grievance of the applicant is <sup>wherein he has said</sup> clear from the reliefs claimed that this order is

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bad and the portion of the order that the absence period shall be treated as dies-non, may be quashed. It may be noted that the order was passed on 18.10.93 whereas this O.A. has been filed on 10.12.01 i.e. after more than 8 years. There is no explanation for this long delay. The terms of the order dated 18.10.93 (annexure-8) were very clear that the period from 12.02.1992 till the applicant joined the post, shall be treated as dies-non and it shall not be treated as qualifying service for promotion and for any other purpose. The meeting of D.P.C. took place in the year 1992 when the applicant was not in service and the applicant could not be considered for promotion. The relief claimed now that the respondents may be directed to hold a review D.P.C. cannot be accepted as during the relevant period the applicant was not in the service of the department. The relaxation given is only to the effect that there will not be any interruption in service to <sup>safe</sup> the interest of the applicant in respect of terminal benefits on attaining the age of superannuation.

4. In the circumstances, the applicant is not entitled for the relief claimed. The O.A. has no merit and is accordingly rejected. No order as to costs.

  
Member (A)

/M.M./

  
Vice Chairman