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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

REGISTRATION NO. 127(T) of 1987

Hridaya Narain Srivastava Applicant.
(plaintiff)

Versus

Union of India and others Respondents.
(defendants)

Hon'ble D.S.Misra, A.M.
Hon'ble G.S.Sharma, J.M.

(Delivered by Hon'ble D.S.Misra)

This is an original suit (no.349 of 1985) which was pending in the court of City Munsif, Varanasi and has come on transfer under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The plaintiff's case is that he was appointed as a Field Assistant in temporary capacity at All India Radio/^{Station} Varanasi w.e.f. 11.8.1966; that on the basis of an interview held at All India Radio Station Lucknow, he was duly selected and appointed as Field Assistant on 18.4.1970; that he was transferred from All India Radio Lucknow to All India Radio, Varanasi on 26.10.1970 and he was again transferred to Rampur on 8.11.1971; that after several representations, and serving a notice under Section 80 C.P.C., he was regularised w.e.f. 18.4.1970; that he was promoted as Farm Radio Reporter w.e.f. 7.6.76 at Varanasi; that in the year 1977 a Departmental Promotion Committee was constituted for regularisation of the ad hoc services of the Farm Radio Reporters and while plaintiff's junior

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were regularised on 13.10.1977, his services were regularised on 30.1.1979; that the delay in the regularisation of the plaintiff on the due date on the post of Farm Radio Reporter has resulted in the plaintiff being placed junior to several other persons, who were junior to him in the post of Field Assistants; that the plaintiff requested the concerned authorities to re-fix his seniority but without any result; that the plaintiff served a notice under Section 80C.P.C. on 11.2.1984 and finding no response, he filed the present suit for issue of a mandatory injunction to the defendants to restore the seniority of the plaintiff from the date of his appointment as Farm Radio Reporter, i.e., 7.6.76 and to promote him to the post of Farm Radio Officer along with all other consequential and monetary benefits.

3. The suit was contested by the defendants, who have denied the various allegations made by the plaintiff and stated that the plaintiff was appointed as Field Assistant from 11.8.66 on ad hoc basis at All India Radio, Varanasi; that on his selection as Field Assistant, All India Radio, Lucknow, he was relieved from Varanasi and he joined his duty at All India Radio, Lucknow on 18.4.70; that he was appointed as Farm Radio Reporter on ad hoc basis w.e.f. 7.6.76 and his services were regularised from 30.1.1979; that in the eligibility list of Farm Radio Reporter prepared and circulated vide letter dated 12.10.1981, the plaintiff was placed at sl.no.3; that after considering representations of other Farm Radio Reports, a revised seniority list of Farm Radio Reporters was circulated vide order dt.

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4.1.1982 in which the seniority of the plaintiff was shown at sl.no.35-A; that various representations of the plaintiff along with others have been considered and the decision of the Director has been conveyed to all Station Officers of All India Radio vide memo dated 1.9.1984; that according to the prescribed procedure, the C.R.dossier and certain other documents are considered by the Departmental Promotion Committee for regularization of persons working on the post of Farm Radio Reporters; that due to unavoidable circumstances of the administration, some Zonal Stations could not manage the DPC within a reasonable period and this has resulted in some of the ad-hoc Farm Radio Reporters, getting regularised earlier than others as regularisation can not be given retrospective effect; that the recruitment rules for the post of Farm Radio Officers were finalised in 1976 and the ad hoc incumbents in the post of F.R.Os. were regularised; that since there is no all India transfer liability interse-grade, there is no justification in the claim that ad hoc appointee as Farm Radio Reporters of one Zone should be regularised before the ad hoc appointee Farm Radio Reporters of another Zone whose date of ad hoc appointment is later than that of former.

4.A rejoinder-affidavit(replication) was filed on behalf of the plaintiff in which it is stated that the seniority list was wrongly and illegally revised from time to time without giving opportunity to the plaintiff; that the constitution of DPC after a lapse of 2½ years is a lapse of

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respondents and the applicant has not to suffer for this delay and he should have been regularised in the year 1977 before the regularisation of the juniors to the applicant; that in the seniority list dated 4.1.1982, the plaintiff-applicant should have been placed at sl.no.2 and no name appears at sl. no.2 of the list and also because he is senior to D.Ramaswami, whose date of appointment is 8.6.76, while the date of appointment of the plaintiff is 7.6.76.

5. We have heard the arguments of the learned counsel for the parties. The only point for consideration in this case is that whether the seniority of the plaintiff should be determined with reference to the date of consideration by the DPC or from the date of ad hoc appointment in accordance with the interse seniority of persons appointed to the post of Field Assistant. The applicant has filed copies of various letters of the Directorate General All India Radio in which instructions have been issued for filling in the vacancies of Farm Radio Reporters. Letter dated 28.5.76 at Paper no. 12-Ga contains the name of 9 Field Assistants working at various places who were to be appointed to the resultant vacancies of Farm Radio Reporters. The letter at paper 13Ga is the letter of appointment of the plaintiff as Farm Radio Reporter on ad hoc basis w.e.f. 7.6.76. The letter at paper no.14 Ga dated 17.6 1980 is the original letter by which the plaintiff was regularised as Farm Radio Reporter w.e.f. 30.1.1979. Letter (at paper 15 Ga) dated 15.4.85 addressed to the plaintiff informs him that the seniority list of Farm Radio Reporters, as circulated vide memo dated 4.1.1982 has been prepared strictly

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on the basis of date of regular appointment as per government instructions. The paper at 16-Ga is the copy of the seniority list dated 9.7.84 of Farm Radio Reporters in which the plaintiff is shown at sl.no.3 and Sri D.Ramaswami of All India Radio, Hyderabad is shown at sl.no.4. In this seniority list, the date of appointment of the plaintiff is shown as 7.6.76 and that of Sri D. Ramaswami of All India Radio, Hyderabad as 8.7.76. In the seniority list dated 4.1.1982 (copy available at page 18 Ga), the plaintiff is shown at sl.no.35-A and his date of appointment is shown as 7.6,76. Against sl.no.2 the word 'misprint' is typed. While the list dated 4.1.1982 is said to be the final list, the list dated 9.7.84 is to be circulated amongst all officers and discrepancies if any pointed out by them is to be intimated to the Directorate before 30th July, 1984. It is strange that without finalising the seniority list subsequent to the circulation of the seniority list dated 9.7.84, the plaintiff was informed vide letter dated 15.4.85 that the seniority list dated 4.1.1982 was final. It appears that the Administrative Officer of the All India Radio Varanasi, is not aware of the seniority list dated 9.7.84 circulated by the Director General, All India Radio New Delhi. It would thus appear that the matter is still under the consideration of the Director General All India Radio New Delhi and the seniority list of Farm Radio Reporters had not become final when the present suit was filed. It also appears that the

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officer filing the written statement on behalf of the defendants-respondents is also not aware of the latest development in the matter and has filed the reply without ascertaining the latest decision in regard to the inter se seniority of Farm Radio Reporters. In para 40 of the W.S., filed by the defendants, it is admitted that there was delay in holding the DPC for regularising the plaintiff in the post of Farm Radio Reporter, and it is stated that regularisation can not be given retrosepective effect. We are unable to accept this contention of the defendants as the DPC is not debarred from considering the fitness or suitability of an official for regularisation/promotion from the due date which may be earlier than the date of holding the DPC. On the facts and circumstances of the case, we come to the conclusion that if the plaintiff was found fit for regularisation from an earlier date, he should be regularised after taking into consideration the date of appointment of all persons appointed on ad hoc basis.

Accordingly, we decree the suit and direct the defendants (respondents) to finalise the seniority of the plaintiff(applicant) and to give him all other consequential benefits for promotion to the higher post of Farm Radio Officer. There will be no order as to cost.

A.M.
A.M. 13.1.88

J.M.
J.M. 13/1/88