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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A. No. 815 of 1988

Sri R.S. Srivastava Applicant.

Versus

Union of India
and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

By means of this application, the applicant has claimed for fixation of his pay above that of Sri R.C. Misra and Sri S. Konda Reddy, who are juniors to him but are getting higher pay than that of the applicant, and according to the applicant, he is entitled for stepping up of his pay in accordance with fundamental rule 26(c). The applicant has filed number of representations but they were not replied by the respondents and that is why, he has come before this Tribunal.

2. The applicant was appointed on 11.5.1953 as Foreman (Works) in the Archeological Survey of India. He was promoted to the post of Caretaker on 1.4.1961 thereafter, he was promoted on adhoc capacity as Conservation Assistant Grade-II. After two years, he passed the trade test and he became qualified for being promoted on regular basis as Conservation Assistant Grade-II, on 1.12.1971. According to the applicant, a seniority list of Foreman (Works) was issued on 1.8.1973 in which he was shown at Sl. No. 14 and Sri S. Konda Reddy at No. 55 and Sri R.C. Misra at Sl. No. 58, but in another

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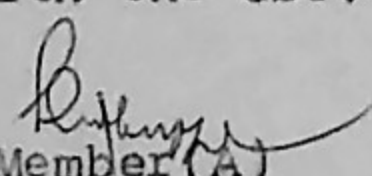
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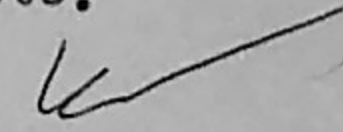
seniority list which was published on 3.12.1976, the applicant was shown at Sl. No. 38 and Sri R.C. Misra was at Sl. No. 39 and Sri S. Konda Reddy was not shown in the aforesaid list. On 27.2.1979, the applicant was promoted as Conservation Assistant Grade-I. In the meantime, the applicant came to know that the aforesaid Sri R.C. Misra, who has been shown as junior to the applicant in the seniority list dated 1.8.1973 as well as in the seniority list of Conservation Assistant Grade-II dated 31.12.1976 has been promoted to the next higher post of Conservation Assistant Grade-I earlier than the applicant. Against the same, the applicant has made a representation and a reply was given to him that Sri R.C. Misra, Conservation Assistant Grade-I was appointed earlier than the applicant on the aforesaid post, and the benefit of stepping up of pay of the applicant does not arise. It has been stated by the respondent that the said R.C. Mishra although he was junior to the applicant earlier but later on of course on the higher post, he was directly selected much earlier than the applicant and that is why the applicant cannot claim seniority or salary equal to that of Sri R.C. Mishra. As far as Sri S. Konda Reddy, is concerned, it was stated that the name of the applicant was at Sl. No. 10 and Sri S. Konda Reddy, was at Sl. No. 47 in the first seniority list. Subsequently, a corrigendum was issued by the Conservation Assistant Grade-II dated 31.12.1979 and the position of Shri S. Konda Reddy was at Sl. No. 38 and the applicant was at Sl. No. 39 and Shri R.C. Mishra finds his place at Sl. No. 40. The promotion to the

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higher post was made on the basis of seniority-cum-fitness and the applicant could not get promotion as he was not found fit by the D.P.C. which assembled on 18th May, 1978 in view of comparative result of the candidates. It appears that the applicant was promoted in place of one Sri Mutto who^{was} transferred to Srinagar but when Sri Mutto refused his transfer, the applicant could not be promoted and he was promoted to the said post only in the year 1985. There is no denial of fact that the applicant was promoted only in the year 1985 but as the applicant was senior to Sri S.Konda Reddy, obviously, his salary could not be less than that of Sri S. Konda Reddy, As Sri S. Konda Reddy was promoted earlier and the applicant could not be promoted and he was promoted subsequently, as such, his salary cannot be lesser than that of Sri S. Konda Reddy,

3. Accordingly, the respondents are directed to step up the salary of the applicant to that of Sri S. Konda Reddy and let it be done within a period of one month from the date of receipt of the copy of this order and the applicant may also be paid arrears within this period. The application is disposed of with the above terms. No order as to costs.


Member (A)


Vice-Chairman

Dated: 8.2.1993

(n.u.)