

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 11th day of Apr 2001.

C O R A M :- Hon'ble Mr. Rafiq Uddin, Member-J.
Hon'ble. Mr. S. Biswas, Member-A.

Original Application No. 745 of 1993

Jitendra Nath Roy S/o Lat Sidhir Chandra Roy
R/o 51- A, Allengang, Allahabad.

.....Applicant

Counsel for the applicant :- Sri G.D. Mukerjee

V E R S U S

1. Union of India through the Comptroller and Auditor General of India, New Delhi.
2. The principal Accountant General (A&E)-I, U.P. Allahabad.

.....Respondents:-

Counsel for the respondents:- Sri S. Chaturvedi

O R D E R

(By Hon'ble Mr. S. Biswas, Member- A.)

By this application under section 19 of Administrative Tribunal's Act, 1985, the applicant seeks the following reliefs :-

5. a
- i) direction to the respondents for promoting the applicant as Assistant Account Officer w.e.f 01.01.91, whereas, he was actually promoted as AAO w.e.f 01.01.93 i.e. two years after the due date. and

ii) consequential benefites like arrears and ante-dated fixation etc.

2. The relevant and factual basis of the relief prayer are that the applicant after joining in the office of Principal Accountant General, Allahabad (Resp.2) on 04.04.62 as U.D.C become Supervisor and worked as such from 06.04.87 to 09.08.89. The post of Supervisor is akin to Section Officer. Though he did not pass the Section Officer's Grade Examination, he performed the duties of Supervisor. The scale of pay for both Supervisor and Section Officers being the same i.e. 1640-1900/-, his experience as Supervisor for the period from 06.04.87 to 09.08.89 should have been treated as that of a Section Officer and ^{been} promoted as Asst. Accounts Officer Gr.'B' [^] on 01.01.91, whereas, he was promoted on 01.01.93 after he had to wait and pass the Section Officer's Grade Exam in 1989. Thereby he has been deprived of two years seniority. The applicant's representations, ^{pointing} ~~permitting~~ ~~not~~ these anomalies and seeking redressal dt. 5.6.91 and 26.03.92 to respondent No. 2 were respectively rejected on 22.02.92 and 12.05.92. The applicant is ~~is~~ agitating his case, has further taken shelter of K.K. Prasad's case (Annexure -6 to the OA). The said Sri Prasad was also a similarly placed Section Officer in Audit Office of North Eastern Railway at Varanasi. He had ^{had} not similarly passed S.A.S exam but [^] working as Section Officer and Hon'ble Tribunal vide order dt. 16.02.89 held that K.K. Prasad has the qualifying experience as Section Officer for 3 years to be eligible for promotion as AAO. It is stated by the applicant that the same ratio should be applied to decide upon his case.

3. The respondents have disputed the claim of the applicant mainly on the following grounds :-

i) The applicant actually did not work as Section Officer from 1987 but w.e.f 1989. Though the post of Supervisor and Section Officer carry the same pay being in the same scale of pay, the nature of job and duty assigned to these posts are different. The Section Officers are assigned to do more sensitive and ardnous job than Supervisor. This differenciation has become necessary in the interest of specialised functionalisation of the Audit and Account activities; the applicant is required to pass S.O.G. Exam and thereafter, have three years experience as Section Officer not as Supervisor as per R.R, 1989.

11) The applicant fulfilled the R.R preconditions, of passing S.O.G Exam in 1989 and soon after he completed 3 years experience as S.O. His case was taken up for promotion to A.A.O and he was promoted on 01.01.93 as AAO. He was promoted as Supervisor on 06.04.89 and passed S.O.G Exam on 10.08.89. The applicant's representations were accordingly disposed of informing the provisions of rules which do not permit his experience as Supervisor to be treated as experience as a Section Officer. Hence, his case is distinguishable from that of K.K. Prasad who had necessary experience of working as a Section Officer due to restructuring order and "redesignation" (para 3.3.5 of the Mannual of Instructions for Restructuring of Cadres in IAAD, 1983-84).

4. Heard the counsel for the parties and have perused the records.

5. The issue that requires to be determined is

i) whether the experience of Supervisor is equivalent to Section Officer as per the RR'89

ii) As referred to by the applicant whether the provisions of para 3.10.1 on Supervisor as contained in the Mannual of Instructions for Restructuring of Cadres in IAAD support his contention as above 4(i) or not.

5. As regards the RR-89, the preconditions for promotion to AAO under Rule-12 is very clear, as reproduced below :-

" Promotion ;

Section Officers who have qualified in Section Officers grade examination and have three years of regular service in the grade. "

It leaves ^{say} ~~no~~ scope for us to ~~hold~~ ^{thereafter} ~~that~~ any one who has not passed the qualifying SOG examination and who does not following that have the experience of working in the S.O. grade as Section Officer, could be held eligible on the ground of analogy or ~~comparable~~ ^{comparable} of the duties. The respondents have clarified to court's satisfaction that the job assigned and conditions of the charge of S.O and Supervisor are not same or comparable . We are inclined to hold similar view, as otherwise, two different designations would not be necessary, though the scale of pay could be same ~~in~~ the different ~~deptt.~~ ^{not} or catagories . In K.K.Prasad's case para 3.3.5 of this Mannual was also allowed. It was said that the post of Supervisor was "redesignated" as Section Officer. This term is indeed not there at all. Nor there is any such ^{allusion} ~~allocation~~ in para 3.3.5. ₅₇

6. The case of K.K. Prasad was disposed of by direction to consider the plea of the applicant that he held the post of Section Officer for three years to be eligible for promotion. He was not ~~as~~ a supervisor. Hence, the said case is distinguishable in our view.

7. We have gone through the relevant para graph (3.10.1) of Mannual of Instructions for Restructuring of Cadres in IAAD in the context of specialisation of functions in different posts, scales and cadres as ^{to be maintained} warranted ~~between~~ the Audit functions and A/Cs. functions :-

" Supervisors; In Accounts and Entitlement Offices, upto twenty per cent of the vacancies in the cadre of section officers will be filled by selection from accountants and SG accountants who have passed either the Departmental Examination for Accountants or SOG Part I and who show exceptional performance. They will be designated as Supervisor. In the 20 point roster points 1,6,11 and 16 will go to Supervisors. "

But the authorities kept this scheme suspended till such time the surplus SOG Examination qualified personnel available as on the date of reorganisations were accommodated as section. *Member*

8. Even as per this clarification we are not able to agree with the plea of the applicant that Supervisor grade and Section Officers Grade are one and the same ~~to~~ the contrary and to our understanding they have been further differentiated first on the ground that this is an accounts function and secondly, till all SOG passed candidates are absorbed, The scheme ^{would} ~~will~~ not take off. It is not the case of the applicant that the ban was lifted and the scheme had taken off. The applicant got his ~~promote~~ promotion only after passing SOG Exam and serving for 3 years as Section Officer in 1993/ Jan. ^{which} is a natural requirement ~~consequence~~ of this rule. *SB*

9. In view of the foregoing facts and observations, we find no merit in the petition. The same is dismissed.

There will be no order as to costs.

S. B. A.
Member- A.

Rajiv J. J.
Member- J.

/Anand/