

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 27 th day of May, 2002.

Original Application No.213 of 1995.

CORAM :-

Hon'ble Mr. CS Chadha, A.M.

Hon'ble Mr. AK Bhatnagar, J.M.

Inder Nath Tiwari

S/o Shri Prasad Tiwari,

Resident of Bikapur,

District Ghazipur.

(Sri N.L. Pandey, Advocate)

..... .Applicant

Versus

1. Union of India Central Board of Excise and Customs, through its Secretary, New Delhi.
2. The Deputy Narcotics Commissioner, Central Bureau of Narcotics, B-57, Sector-A, Mahanagar, Lucknow.
3. The Narcotics Commissioner, 19, the Mall, Morar, Gwalior-6(MP)
4. General Manager, Government Opium & Aalkaloid Works (Undertaking) District Ghazipur.
5. Amba Lal Rao, at present A.O. in M.P. Unit C/o Deputy Narcotics Commissioner, B-57, Sector 'A', Mahanagar, Lucknow.

(Shri SC Tripathi, Advocate)

..... .Respondents

O R D E R

By Hon'ble Mr. C.S. Chadha, A.M.

This OA has been filed challenging the order of the Govt. of India, Central Board of Excise and Customs dated

686/2002

19-2-1992 whereby the seniority list of the ministerial staff which was earlier maintained unitwise was directed to be maintained on an All India basis. The applicant was also aggrieved by the principle adopted for maintaining such an All-India seniority list on the basis of continuous officiation in a particular grade rather than from the date of confirmation to such grade. He has, therefore, challenged not only the basis of the new All-India seniority list but also the promotion of respondent no.5, Shri Amba Lal Rao, who was promoted on an ad-hoc basis to the post of Accounts Officer w.e.f. 2-7-1992 because the applicant considered himself to be senior to respondent no.5 on the basis of his joining govt. service as an LDC earlier than him. According to the applicant he joined as an LDC on 26-8-1960 in the UP Unit whereas respondent no.5 joined in the same post in the MP Unit on 14-9-1960.

2. In their counter affidavit the respondents have clearly given answers to all the three objections raised by the applicant. Firstly the maintenance of the All India seniority list was directed by the Govt. of India Central Board of Excise and Customs vide a circular dated 19-2-1992 on the demand raised by the representatives of the Staff. This decision was taken for all Ministerial Staff in the country without thinking of any favour to any person or class of persons. The maintenance of the list on the basis of continuous officiation in each grade was also taken for the entire Country without any intention to favour any particular person or class of persons.

3. The main grouse of the applicant seems to be the promotion of respondent no.5 as an Accounts Officer before him because he considers himself senior to

Boyle

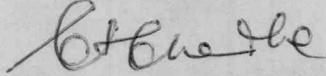
respondent no.5. In their counter affidavit it has been amply made clear by the respondents that the applicant was considered for promotion to the grade to which respondent no.5 was promoted, for the first time in 1986, but because of disciplinary proceedings pending against him the recommendations of the DPC regarding his promotion were kept in a sealed cover. His case for promotion was again considered in the years 1988, 1990 and 1991-92 and he was not considered fit for promotion. It is, therefore, amply clear that the applicant was not denied a chance for being considered for promotion in preference to respondent no.5 but that he was himself not found fit in 4 consecutive DPC meetings. In fact when the sealed cover of the DPC of 1986 was opened he was not exonerated but punished. Although the quantum of punishment was ^{he and} later reduced, he still was not exonerated, therefore, not considered for promotion. It has also been averred by the respondents that prior to the last promotion all earlier promotions were granted according to the seniority of each person in his respective unit. It has, therefore, been claimed by the respondents that respondent no.5 who was in the MP Rajasthan Unit received all his earlier promotions by virtue of his seniority in that unit, whereas the applicant being from the UP Unit received his promotions according to his seniority in his own Unit. After the first promotion from LDC to UDC in the respective Units the seniority of the applicant vis-a-vis respondent no.5 obviously changed as the continuous officiation as UDC in the respective Unit became the basis of seniority and not the initial date of appointment as LDC. As regards promotion to the post of accounts officer the applicant lost out by his own inability to be found fit by 4 successive DPCs and his lack of promotion

B. S. Patel

has got nothing to do with the earlier promotion of respondent no.5, who in any case could not be considered junior to the applicant because of his promotion to the rank of UDC and Head Clerk from dates governed by his own seniority in his own Unit.

4. From the above discussion it is clear that there has been no injustice to the applicant both in maintaining seniority list on all India basis after 19-2-1992 and using the basis of continuous officiation in each grade for determining the seniority. Further no injustice has also been caused to the applicant by denying him promotion to the post of Accounts Officer because he was found unfit for promotion by 4 successive DPCs between 1986 and 1991-92. Therefore, we find that there are no merits in the OA and it, therefore, is dismissed. No order as to costs.


Member (J)


Member (A)

Dube/