

Central Administrative Tribunal

Calcutta Bench

...

Monday, the 19th day of November, Two Thousand One.

Present

Hon'ble Shri S. BISWAS Administrative Member

and

Hon'ble Shri SHANKER RAJU, Judicial Member.

Original Appln.No.318 of 1997

Bidhan Ch. Sikdar

... Applicant

Mr. Samir Ghosh

... Counsel for the Applicant

..VS..

UD I and others

... Respondents

Mr. R.M. Roychowdhury

... Counsel for the Respondents

..2..

Orders: Pronounced by Shri Shanker Raju, Hon'ble Judicial Member.

...

Heard the parties. The claim of the applicant is to assign proper seniority to the applicant in the grade of Rs.1660-2660/-(RP) in the cadre of Commercial Clerks with effect from 4.11.92 i.e. the period when the applicant has gone on training.

2. The learned counsel appearing for the applicant stated that in view of the decision of this Tribunal in OA No.128/94 dated 21.6.96, similarly circumstanced employees have been accorded seniority by counting the period of training towards seniority for the purpose of further benefit. The respondents, by their communication dated 5.2.97 ⁱⁿ the representation of the applicant has turned down the request of the applicant on the ground that the above cited case cannot be applicable to the applicant as it was only given to the individuals and since the applicant was not a party, the same ⁱⁿ cannot be extended the benefit of the judgement. The learned counsel by resorting to the decision of the Apex Court in K.C. Sharma & Ors Vs. UOI & Ors 1998 (1) (SC) page-54

wherein it has been held that similarly placed person should not be rejected for bar of limitation and further the similarly circumstanced employees cannot be deprived of the benefit of the judgement.

3. On the other hand, the respondents in their reply defended their orders passed by contending that the applicant has not approached the Court earlier in the OA 128/94 he cannot be extended the benefit and the benefits are applicable only to the parties of that case. It is further stated that there is no provision under the rules to reckon the period of training towards seniority for the purpose of further service benefits.

4. Having regard to the rival contention of the parties and in view of the decision of the Apex Court in K.C. Sharma & Ors Vs. UOI 1998(1) (SC) AIR 1998 Page No.54 wherein it has been held that the person similarly situated cannot be debarred of the benefit of the judgement and no delay is attracted in the cause of action. It is further held that even if a person hasnot approached the Court, but who is

similarly situated, the benefit would be extended to him.

5. In view of the matter and having regard to the fact that it is not disputed that the applicant is ^{not} ~~not~~ ^{identically} placed, the grievance of the applicant that the training period be reckoned towards ^{the} the period for counting seniority as has been appraised by the decision of this Tribunal in OA 128/94, has to be granted. In view of the above we find that the impugned order of the respondents dated 5.2.97 is liable to be rejected as not sustainable and is contrary to the ratio of the Apex Court. The applicant, who is identical is to be accorded the benefits as has been accorded to the applicant in OA 128/94.

6. In the result, and having regard to the reasons recorded the present application succeeds and the respondents are directed ^{to} ~~to~~ assign proper seniority to the applicant with effect from 4.11.92 with all consequential benefits as prayed for in para 8(1) to 8(v) of the application. within three months from the date of receipt of copy of this order. OA is allowed. No costs.

S. Raju
(SHANKER RAJU)
Member(J)

S. Biswas
(S. BISWAS)
Member(A)

19.11.2001.

MB.