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CENTRAL ADMINISTRATIVE TRIBUNAL

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T.A. No. 1030/87

(WRIT PETITION No. 1149 of 1982)

Mohd. Amir Siddiqui

Petitioner

versus

Union of India & others

Respondents.

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

Hon. Mr. K. Obayya, Adm. Member.

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

The petitioner, who started as Supervisor in the Central Excise Department, was confirmed as such from 1.1.69) a notice was issued to him on 7.9.73 for premature retirement which was substituted by another notice dated 4.12.1973 and both the above orders were superseded by the order dated 16.2.1974 retiring the petitioner from service on completion of 30 years of service. The applicant was relieved on 24.5.1974 In the mean time the applicant was reinstated in the service ~~and~~ in view of the decision of the review committee and the applicant was reinstated in service vide order dated 15.2.80, in which order it was provided that the intervening period from the date of his premature retirement and to the date of his reinstatement will be decided in accordance with the Board's letter dated 30.9.77 and thus, vide office letter dated 20.9.77 the intervening period was to be treated as provided therein. The applicant was thus reinstated. It may be

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due to the mentioned here that/the period from 24.5.1974 to 21.2.1980 he was not promoted to the grade of Inspector. After his reinstatement, as per findings of the D.P.C. he was promoted to the grade of Inspector on 20.7.81 and before a fresh D.P.C. for consideration of his case to the post of Superintendent Grade 'B' could be considered, he was retired from service on attaining the age of superannuation on 28.2.1982. He was confirmed in the grade of Inspector w.e.f. 1.8.1974 vide order dated 28.1.1982. Earlier the proposal for confirmation was dropped vide Board's letter dated 6.1.1982 with reference to the application of Shri Siddiqui dated 21.9.1965. The Assistant Collector of Central Excise, Rampur was informed that the confirmation matter of the applicant was not being considered as a complaint was pending against him. His case for crossing E.B. w.e.f. 7.2.1969 was considered by D.P.C. held on 16.5.1980 after the reinstatement which found/^{him}fit to cross E.B. w.e.f. 7.2.69.

2. The applicant, by means of this application, has prayed that the order dated 3/4.10,1980, 21.9.1981 and the order dated 16.10.1981 may be quashed and may be modified and he may be declared entitled to get all the benefits of arrears of salary, increments, allowances and other benefits for the intervening period between 24.5.1974 to 21.2.1980 and a mandamus be issued ~~requiring~~ requiring the opposite parties to consider the intervening period as period spent on duty for the purposes of pay

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etc and they may also be commanded to confirm the petitioner with effect from 1963 and to declare him promoted to the post of Selection Grade Inspector w.e.f. December, 1976 and to the post of Superintendent w.e.f. June, 1980 and to pay him the entire difference of pay and allowances and increments etc.

3. So far as the earlier period is concerned, earlier order was recalled and it was provided that as to how the period is to be treated, but in view of the said letter, as the applicant remained satisfied with the order the period was to be decided in accordance with the letter of the Board referred to above but that period has not been decided in view of the above letter. The applicant was deemed to be in continuous service and he continued in service and as such the earlier order ~~dated~~ requires modification and partly quashed to the effect that the applicant will be treated to be on duty during this period, although the respondents are within their rights to treat this period as on leave. As the order of compulsory retirement was recalled, he was entitled to ~~same~~ confirmation and promotion with effect from the due date as if the retirement order never existed.

4. Accordingly, this application is allowed to the extent that the respondents are directed to convene a review D.P.C. and to consider the case of the applicant for confirmation with effect from earlier date giving him benefit to which he was entitled to within 3 months

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from the date of receipt of a copy of this order by the respondents. In case the petitioner is entitled for confirmation and promotion he will be confirmed with effect from the back date and may be given notional promotion, as the confirmation and promotion will be notional, he will be entitled to the benefits from that date, although he will be entitled to the emoluments with effect from actual date.



A.M.



V.C.

Lucknow: Dated 10.12.92.