

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 219/87

198

T.A. No.

DATE OF DECISION 14.11.1991

Shri Sudhir Dinanath Tupkar Petitioner

Advocate for the Petitioner(s)

Versus

Comptroller & Auditor General of
India & Ors. Respondent

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. —Justice U.C.Srivastava, Vice-Chairman,

The Hon'ble Mr. M.Y.Priolkar, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
- 3.—Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✓


 (U.C.SRIVASTAVA)
 VICE-CHAIRMAN.

(6) (6)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY
CAMP AT NAGPUR.

Original Application No. 219/87.

Shri Sudhir Dinanath Tupkar.

...Applicant.

V/s.

Comptroller & Auditor General of India & two others.

...Respondents.

Coram: Hon'ble Shri Justice U.C.Srivastava, Vice-Chairman.
Hon'ble Shri M.Y.Priolkar, Member(A).

Appearances:-

Oral Judgment:-

(Per Shri Justice U.C.Srivastava, Vice-Chairman) Dt. 14.11.1991

The applicant was appointed as LDC on 31st January, 1959. He passed the promotional examination for UDC in the year 1962, the result of which was declared on 12.1.1965. In the meantime it appears that an isolated post of Technical Assistant in the higher pay scale was created vide order dt. 16.1.1963 w.e.f. 29.12.1962 and the applicant volunteered himself for the same. His option was accepted and that he was appointed as Technical Assistant, on which post he worked till 8.5.1984. The post was abolished on 29.7.1985. Thereafter, the petitioner was appointed as Senior Auditor w.e.f. 29.7.1985 and he was given appointment in the cadre of Auditor w.e.f. 1.7.1965. But the applicant was not given seniority and the monetary benefits which he would have earned in case he had been appointed as senior on that particular date, which led him ultimately to this Tribunal.

2. The respondents have resisted the claim of the applicant and have stated that the applicant knew that the post was an isolated post and the applicant applied for the

post and that is why he was appointed. The applicant continued on the said post which was abolished because of non-availability of work in the said post. It has not been said that the applicant knew from the beginning that in future there will be no work available so far as that particular post is concerned. The nature of duty involved in the said post of Technical Assistant was to take out various copies of various duly audited in the event originals were required to be sent to various authorities, but after bifurcation so far as the Accounts Wing is concerned the said wing became responsible for maintenance of Accounts and custody of vouchers of the Post & Telegraphs Department and that is why after bifurcation no work was there and the post had to be abolished. After abolishing the post the applicant was absorbed as auditor from 29.7.1985. The applicant have been absorbed in the same now. Further it has been admitted/~~xxx~~ ⁱⁿ the reply that the junior person to the applicant was given promotion earlier and he continued to be in the cadre of auditor and the applicant cannot make grievance of the same inasmuch as he remained as an Auditor and also secured the same benefit and in view of the fact he accepted the isolated post which cannot be his grievance. The applicant essentially belongs to the cadre in which he was later on sent and he was absorbed, and once he was given deemed promotion from a particular date there was no reason why deemed seniority would not have also been given to him. In case the applicant would have stayed in the department and would not have opted for the post on which he could not have joined unless the respondents have accepted the same and appointed him, the applicant will also earn deemed seniority in the said department in which the respondents appears to have given him deemed promotion. Once the promotion have been given the applicant is also entitled to deemed seniority though

without any monetary benefits. In view of the fact that the applicant has earned monetary benefits elsewhere and further he has not worked on the post on which he has been given deemed promotion during all these period.

3. Accordingly this application is allowed in part, inasmuch as, the applicant will be given deemed seniority w.e.f. the date he has been promoted, but he will not be entitled to any monetary benefit as a result of the same. No order as to costs.


(M.Y.PRIOLKAR)
MEMBER (A)


(U.C.SRIVASTAVA)
VICE-CHAIRMAN.

B.S.M.