

(11)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

D.A. 333/89.

Shri S.P.N. Bhambi,
C/o. Ganga Jamuna Lodge,
IIInd Floor, AH Wadia Marg,
Kurla,
BOMBAY - 400 070.

.. Applicant.

v/s.

Union of India, through
The Ministry of Law and Justice
(Department of Legal Affairs),
Shastri Bhavan,
NEW DELHI - 110 001.

.. Respondent.

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

ORAL JUDGMENT

DATED: 17.7.1991.

¶ Per : Hon'ble Shri U.C. Srivastava, Vice Chairman ¶

The applicant was appointed as Assistant (Legal) under the Ministry of Law Justice on or about 25.7.1972 after selection by U.P.S.C. In this application he has prayed that he was entitled to be confirmed w.e.f. 2.9.1977 or 1.1.1979 as Assistant Legal and that the adverse remarks in his Confidential Reports are illegal and must be expunged and he should be granted all other benefits of seniority and promotion based upon his confirmation on 2.9.1977 or 1.1.1979. During the pendency of the application the adverse CRs of the applicant were

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expunged. The applicant by way of an amendment prayed that he should be promoted from the date his juniors appointed in the year 1972 and confirmed on 2.9.1977 were promoted as Superintendent (Legal) and as Assistant Legal Advisers w.e.f. 25.8.1988 and the applicant be granted consequential financial benefits and arrears.

2. Admittedly vide order dtd. 18.4.1990 the applicant was appointed as Assistant (Legal) in substantive capacity on 17.9.1977. The scope of this application is now limited in view of the fact that his adverse remarks are expunged. He claims that he is entitled to the promotion to these posts with retrospective effect and consequential benefits should be granted as the adverse remarks have been expunged. On behalf of the respondents it has been contended that the applicant cannot be promoted with retrospective effect as the posts were selection posts which has been disputed by the applicant.

3. In view of the fact that the adverse remarks have already been expunged and the applicant has been promoted to the the post of Superintendent Legal we direct that for these two posts the applicant's claim has to be considered. In case these posts are not selection posts, the applicant may be promoted on these posts one after another with retrospective effect from

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the date on which his juniors were promoted, if assessed as fit for promotion by the competent authority. If any post is a selection post the applicant may be considered for the same as on due dates by constituting a review DPC and promoted with retrospective effect if selected by DPC. The applicant will be entitled to consequential benefits. With the above observations this application is disposed of finally. There will be no order as to costs.

(M.Y. PRIOLKAR)
MEMBER(A).

(U.C. SRIVASTAVA)
VICE CHAIRMAN.