

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT LUCKNOW

O.A. No. *106* of 1990(L)

Mohammad Hanif

... Applicant

Versus

Union of India & another

... Respondents

I N D E X

1. Memo of Appeal
2. Annexure No. 1
Copy of impugned order of promotion
dated 25.11.88
3. Annexure No. 2
Copy order dated 14.8.89
4. Bank Draft/Postal Order No. 802 409880 Dated 20.3.90
for Rs 50/- only.
5. Vakalatnama

Place: Lucknow

Dated: 20.3.90

Asif Kumar Chaturvedi

Advocate,
Counsel for the applicant

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT LUCKNOW

O.A. No. of 1990 (1)

MOHD HANIF,
Aged about 52 years,
Son of Sri Abdul Rahim,
Resident of Quarter No. 067, Phe III,
Kendranchal Colony, Sec. K, Ali Ganj,
Lucknow, 20.

Working as Cost Accountant,
Office of the Geological Survey of India,
Lucknow.

... Applicant

Versus

1. Union of India through its Secretary,
Ministry of Steel and Mines,
Shastri Bhawan, New Delhi.
2. Director General,
Geological Survey of India,
Calcutta-13.

... Respondents

APPLICATION UNDER SECTION 19
OF THE TRIBUNALS ACT, 1985

DETAILS OF APPLICATION

1. Particulars of the order against which the application is made;

The above said application is being preferred before this Hon'ble Tribunal against the impugned order of promotion No. 7829C/A-12011(G&A)/88/19A dated

Mohd. Hanif

25th November, 1988 through which the persons junior to the applicant have been promoted on the next higher post and the order No. 4289C/A-32019/15/87-15^A dated 14.8.89 through which the rejection order mentioned therein dated 19.9.88 has been communicated to the petitioner. A copy of both the impugned orders dated 25th November, 1988 and 14.9.1989 are annexed herewith as ANNEXURE No. 1 & 2 respectively.

2. Jurisdiction of the Tribunal;

The applicant declares that the subject matter of the order against which the applicant wants redressal is within the jurisdiction of the Tribunal as the applicant is posted at Lucknow in the office of Geological survey of India, Aliganj, Lucknow.

3. Limitation;

The applicant further declares that the application is within the limitation period prescribed in section 21 of the Administrative Tribunals Act, 1985 as the last order of rejection of representation was communicated through order dated 14.8.89.

4. Facts of the case;

1. That the applicant originally employed in the defence account of the Union of India. However he was selected by the Union Public Service Commission for the post of Cost Accountant in the establishment of the Geological Survey of India and in pursuance of that selection in the Geological Survey of India he joined on 27th April, 1984 as Cost Accountant and

Mohd. Hanif

since then he is performing his duties on the said post and is presently posted at Lucknow.

ii. That the next promotion for which the applicant could look forward was and is to the post of Assistant Cost Accounts Officer. According to the policy and executive instructions the post of Assistant Cost Accounts Officer is to be filled by way of promotion on the basis of seniority, subject to rejection of unfit, from amongst the cost accountants.

iii. That for this promotion the petitioner was eligible but the promotions were made through an order dated 25th November, 1988 in which the applicant was passed over and 5 persons mentioned therein have been promoted all of whom except first one, are junior to the applicant on the post of Cost Accountant.

iv. That the last 4 mentioned in Annexure no. 1 are the persons who were promoted to the post of Cost Accountant from the post of Assistant Cost Accountant and their promotions were regularised later than regular appointment of the petitioner was made directly on the post of Cost Accountant through Public Service Commission. That is why in the confirmation order dated March, 1987 these 4 persons have been placed below the applicant. This position has also not been disputed by the respondents which will be evident from the circumstances stated hereinafter.

Md. Hanif

v. That the representation of the petitioner made to the Director General, the Opposite Party No. 2 was rejected and the same was communicated to the petitioner through a letter dated 14.8.89. In this letter it has been asserted that on 10.11.1988 the date of D.P.C. the petitioner was not eligible as he did not have 5 years service on the post of Cost Accountant for promotion to the post of Assistant Cost Accounts Officer. This position is wholly untenable. There are already instructions of the Govt. of India through a circular letter dated 18.3.88, which provides that even if a candidate has not put in the requisite period of service, but persons junior to him are being considered for promotion, he will be promoted. The petitioner made another representation to that effect on 5.10.1989 to the Opposite Party No. 2 pointing out the above mentioned policy decision of the Government of India referring circular letter dated 18.3.1988 but the same has not been replied up till now. A copy of the said representation dated 5.10.1989 is also annexed herewith as ANNEXURE No. 3 to this application.

vi. That the reply of the Opposite Party No. 2 contained as Annexure no. 2 indicates that the petitioner was not considered by the D.P.C. for promotion to the post of Assistant Cost Accounts Officer. He was arbitrarily excluded from the consideration and in violation of the policy decision of the Govt. of India.

Mohal: Hand

vii. That the supersession of the applicant is wholly arbitrary and mala fide and violates fundamental rights guaranteed to the petitioner under Arts. 14 and 16 of the Constitution of India. Apart from the civil and penal consequences.

vii. That the supersession of the petitioner is bad on the following amongst other grounds;

5. Grounds for relief with legal provisions;

i. Because the supersession of the petitioner is wholly arbitrary and mala fide.

ii. Because the execution of the petitioner from consideration for promotion to the post of Assistant Cost Accounts Officer is also contrary to the policy of the Govt. of India.

iii. Because the State cannot be compelled to abide by the policy professed and declared by it.

iv. Because the supersession of the applicant is also violative of the fundamental rights of the applicant guaranteed under Art. 14 and 16 of the Constitution of India.

v. Because the exclusion of the applicant from consideration amounts to punishment in violation of the principle of natural justice.

Mehd. Hand

6. Details of remedy exhausted:

The applicant declares that he has availed all the remedies available to him under the relevant service rules etc.

The applicant preferred his first representation on _____ and again he made another representation dated 5.10.1989 pointing out the policy decision of the Govt. of India referring circular letter dated 18.3.1988.

7. The matter is not previously filed or pending without any other court;

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of this application has been made before any court or any other authority or any other bench of the Tribunal, nor any such application, writ petition, or suit is pending before any of them.

8. Relief sought;

In view of the facts and grounds mentioned in paras 4 & 5 of this application, the applicant prays for following reliefs;

- (A) That this Hon'ble ~~can~~ Tribunal may be pleased to very graciously quash the order dated 14.8.89 and the order of the Director General (Opposite Party No. 2) mentioned therein after summoning the records from the respondents.

Mohd. Hanif

(B) That a writ order or direction in nature of mandamus commanding to Opposite Parties to consider and promote the applicant on the post of Assistant Cost Accounts Officer from the date on which his juniors have been promoted, with all consequential benefits in the matter of pay, allowances and arrears arising there of and continuity in service on the post of Assistant Cost Accounts Officer.

(C) That any other and further relief which this Hon'ble Tribunal deems fit and proper may also be awarded in favour of applicant along with cost.

9. Interim order if any prayed for;

Nothing.

10. The humble applicant wants oral hearing through his counsel.

11. Particulars of postal orders;

Postal order No. B02 6098 80 Dated 20.3.90
for Rs 50/- only.

VERIFICATION

I, Mohd. Hanif, Aged about 52 years, Son of Abdul Bahir, Resident of Quarter No. 67, Type III, Kendranchal Colony, Sec. K, Ali Ganj, Lucknow do hereby

Mohd. Hanif

(8)

verify that the contents of paragraphs 1 to 11 are true to my personal knowledge except para-5 which is true on the basis of legal advice received and that I havenot suppressed any material facts.

Application is being provided vide notification No. A.A.T. 11019/44/87 dated 11th October, 1988.

Mohd. Hanif
Signature of the Applicant

Place: Lucknow

Dated: 20.3.90

Azif Kumar Chaturvedi
Advocate,
Counsel for the applicant

Annexure No 1

7829c. Government of India
No. /A-12011(A&A)/88/19A

Dated, the 25 Nov. '88.

From:

The Director General
Geological Survey of India
Calcutta.

To:

- 1) Sri Hari Mohan Chatterjee,
Cost Accountant, E.R.O.,
G.S.I., Calcutta.
- 2) Sri Madhu Sudan Singh,
Cost Accountant, CHQ.
GSI, Calcutta.
- 3) Sri Parimal Krishna De,
Cost Accountant, CHQ,
GSI, Calcutta.
- 4) Sri M. H. Dixit,
Cost Accountant, C.R.O.,
GSI., Nagpur.
- 5) ✓ Sri Devi Singh,
Cost Accountant, W.R.O.,
GSI., Jaipur.

Sub: Promotion to the post of Assistant Cost
Accounts Officer in G.S.I.

On the recommendation of the DPC, the Director
General, G.S.I. has kindly approved of your promotion
to the post of Assistant Cost Accounts Officer in the
G.S.I. in a temporary capacity.

The terms and conditions of your appointment
to the post of Assistant Cost Accounts Officer in G.S.I.
are as follows:-

- a) Your pay in the grade of Assistant Cost Accounts
Officer (Rs.2200-75-2800-EB-100-4000/-) will be
fixed according to rules.
- b) Your promotion will take effect from the date
you assume charge of the post of Assistant Cost
Accounts Officer in the G.S.I. at the place
indicated below after communication of these orders.
- c) You will be on probation for a period of two (2)
years from the date of your appointment to the post
of Assistant Cost Accounts Officer which may be
extended at the discretion of the competent
authority.

If you are agreeable to accept the aforesaid
terms and conditions, you may receive charge of the
post of Assistant Cost Accounts Officer at ERG., GSI

Contd.....pg/2

Mand. Hand

T.C.
Sri Chatterjee
Hd

AMM. No 2

Copy of letter No. 9970A/T.File/Representation/89/
Estt. dated 19.9.1989 addressed to the Director(D),
Drilling Division, NR, GSI, Lucknow from the Sr. Dy.
Director General, NR, GSI, Lucknow.

Sub: Representation of Shri Mohd. Hanif,
Cost Accountant, NR, GSI.

Ref: The Director General, GSI, Calcutta No.
4289C/A-32019/15/87-15A, dated 14.8.1989.

With reference to the above, you are requested
to intimate Shri Mohd. Hanif, Cost Accountant, N.R.
that he was not eligible for promotion to the post
of Assistant Cost Accounts Officer as on 10.11.1988
i.e. the date of D.P.C. as eligibility period was
5 years as per recruitment rules for promotion to the
post of Assistant Cost Accounts Officer.

Sd/-
(S.K. Mukherjee)
Administrative Officer,
for Sr. Dy. Director General, NR.

True copy
Ministry
27/9/89

Mohd. Hanif

T.C.
Asst. Controller
Adv.

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OA/TA/RA/CP/MA/PT OA 87 of 20 90

Mohd. Hariz

Applicant(S)

Versus

Respondent(S)

INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
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②	Order sheet	3
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④	Repetition copy	8-18
⑤	Power	19- 20
⑥	Annexure	20-21 22-27
⑦	CA	22-27 28 -
⑧	RA	28-36
⑨	Subple CA	37-41
	C.W.	
⑩	Rev. 70/92	
⑪	Rev 1000/92	

Certified that the file is complete in all respects. *B.C. file needed to destroy*

Signature of S.O.

Signature of Deal. Hand

2/6/12

203-50

CENTRAL ADMINISTRATIVE TRIBUNAL
DISTRICT BENCH, LUCKNOW

Registration No. 127 of 1969 9067

APPLICANT(S) M. Hanif

RESPONDENT(S) Govt

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent?
2. a) Is the application in the prescribed form?
b) Is the application in paper book form?
c) Have any complete sets of the application been filed?
3. a) Is the appeal in time?
b) If not, by how many days it is beyond time?
c) Has sufficient cause for not making the application in time, been filed?
4. Has the document of authorisation/ Vakalatnama been filed?
5. Is the application accompanied by B.D./Postal Order for Rs. 50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed?
7. a) Have the copies of the documents/referred upon by the applicant and mentioned in the application, been filed?
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly?
c) Are the documents referred to in (a) above neatly typed in double space?
8. Has the index of documents been filed and pagging done properly?
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application?
10. Is the matter raised in the application pending before any court of law or any other Bench of Tribunal?

1. Yes
 2. Yes
 3. Yes
 4. Yes
 5. Yes
 6. Yes
 7. Yes
 8. Yes
 9. Yes
 10. No

P.O. No. 1024090/80

Particulars to be Examined

Endorsement as to result of examination

- 11. Are the application/duplicate copy/spare copies signed ?
- 12. Are extra copies of the application with Annexures filed ?
 - a) Identical with the Original ?
 - b) Defective ?
 - c) Wanting in Annexures

Yes ✓
 Yes (2+2)

Nos. _____ pages Nos _____ ?

Have the file size envelopes bearing full addresses of the respondents been filed ?

NO

- 14. Are the given address the registered address ?
- 15. Do the names of the parties stated in the copies tally with those indicated in the application ?
- 16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?
- 17. Are the facts of the case mentioned in item no. 6 of the application ?
 - a) Concise ?
 - b) Under distinct heads ?
 - c) Numbered consecutively
 - d) Typed in double space on one side of the paper ?
- 18. Have the particulars for interim order prayed for indicated with reasons ?
- 19. Whether all the remedies have been exhausted.

Yes

Yes

NA

Yes

No

Yes

dinesh/

Hon. D.K. Agarwal, J.M.
Hon. K. Obayya, A.M.

See original order on main relation

Admit:
Issue notice.
List it before the D.R.
on 7-9-90.

A.M.

J.M.

OR

Notices were issued on 2.4.90
Neither reply nor any unserved sept. copy have been return back.
S.P.O before D.R.

31.10.90

Due to Holiday Case is adjourned to 18.12.90.

18.12.90

No sitting adj to 12.2.91.

12.2.91

No sitting adj to 14.3.91.

14.3.91

No sitting adj to 24.4.91

24.4.91

Hon. M.Y. D.K. Agarwal J.M.
Hon. W. K. Obayya A.M.

7-9
Applicant and his counsel are present 31/10/90
Painotkar 2 O.P.
Came but he failed to file any counter or to file any adjournment application. Hence

~~the~~ adjournment application be listed as per v.K. Chandray case is adjourned to 6.8.91 for ~~final~~ order

OR

CA/RA have been exchanged.
He for the applicant has filed MP 120/91 for summary of document s-to

thanks court on 31.10.90 for order.

6.8.91

No sitting adj to 4.9.91.

MP 120/90(L) filed
on 15/3/91

contd
in
copy

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

O.A.No. 87/90

Mohd. Hanif

Applicant

versus

Union of India and others

Respondents.

Shri A.K.Chaturvedi

Counsel for Applicant.

Shri V.K. Chaudhari

Counsel for Respondents.

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

Hon. Mr. A.B. Gorthi, Adm. Member.

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

By means of this application the applicant has challenged the order of promotion dated 25.11.88 promoting the persons who were junior to the applicant to the higher post and the order dated 14.8.89 through which the rejection order mentioned therein dated 19.9.88 has been communicated to him.

2. The applicant started his service career in the Defence Accounts of the Union of India. He was selected by the Union Public Service Commission for the post of Cost Accountant in the G.S.I. and in pursuance of the selection he joined there on 27.4.84. The next promotional post of Assistant Const Accounts Officer was to be filled by way of promotion on the basis of seniority, subject to rejection of unfit from amongst the cost accountants. According to the applicant, although he was fully eligible but the promotions were

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not

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made through order dated 25.11.99 and the persons junior to the applicant were promoted. Out of the five persons, four were appointed as such from the post of Assistant Cost Accountant and their promotions were regularised and later on regular appointment of the applicant was made through U.P.S.C. on the post of Cost Accountant and in the list these 4 persons have been placed below the applicant. The applicant made representation to the Director General which was rejected and in the it was pointed out that the applicant was not considered for the post by the D.P.C, as he did not have 5 years service on the post of Cost Accountant as on 10.11.88, i.e. on the date when the D.P.C. met. The applicant has, thus challenged his supersession and has approached this Tribunal.

3. The respondents have opposed the claim of the applicant and have pointed out that as per recruitment rules the post of Assistant Cost Accounts Officer were filled 100% by promotion on selection basis and as per existing rules the posts are filled (i) 50% by promotion failing which by transfer on deputation, (ii) 50% by transfer on deputation, failing which by direct recruitment on selection basis and the applicant was not considered by the D.P.C. since he did not complete five years of regular service in the Feeder cadre as required under the new recruitment rules. The applicant has placed reliance on the circular dated 18.2.88 regarding which it has been stated that the same was not

W

available in the office of the respondents at the time of holding D.P.C. It has been stated that he was entitled to be promoted with effect from 27.4.89 after completion of five years of service and the D.P.C. met on 30.8.89 and the name of the applicant was considered against the reserved vacancy for the post of Assistant Cost Accounts Officer and a deservation proposal had already been sent to the Ministry for approval. The applicant has claimed promotion on the basis of the said O.M. dated 18.3.88. It has been stated that the applicant had worked as Cost Accountant in the Ordinance Parachute Factory, Kanpur with effect from 1.3.74 to 26.4.84 and he was relieved from there on 26.4.84 for joining in G.S.I. and the entire period was to be counted towards the period that the applicant had completed more than five years of service

4. Vide O.M. dated 18.3.88 all the Ministries/ Departments were advised to insert a note in the Recruitment Rules for various posts to the effect that when juniors who have completed the eligibility period are considered for promotion, their seniors would also be considered for promotion irrespective of whether they have completed the requisite service, provided they have completed the probation period. It was also emphasised that the Ministry/Department to ensure that the seniors are not overlooked for promotion.

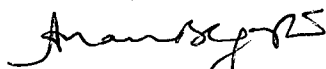
5. A similar matter came up for consideration before the Bangalore Bench of this Tribunal in O.A.

4

No. 135 of 1991 'Shri Rajendra Sharma vs. The Director
5
G.S.I. Calcutta and/others' and in the said case the
respondents' plea that the D.P.C. proposal was sent
to the Ministry before the issue of O.M. dated 18.3.88
was rejected and the application was allowed and the
respondents were directed to ~~to~~ constitute a review
D.P.C. for assessment of the case of the applicant
alongwith that of his juniors within a period of 3 months
from the date of receipt of copy of the order and
promoted from the date his juniors were promoted.

This application is allowed and the respondents are
directed to convene ^a Review D.P.C. within a period of
3 months. In case the applicant is found fit he may be
given notional promotion with effect from the date his
juniors were promoted and the actual benefits from the
date of actual promotion.

6. With the above observations the application is
disposed of with no orders as to costs.


Adm. Member.


V.C.

Lucknow: Dated ~~28.5.92~~
28.5.92.

Shakeel/

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW

O.A. No. 07 of 1990 (L)

MOHD HANIF,
Aged about 52 years,
Son of Sri Abdul Rahim,
Resident of Quarter No. 067, Type III,
Kendranchal Colony, Sec.K, Afi Ganj,
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Working as Cost Accountant,
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Mohd. Hanif

(3)

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iv. That the last 4 mentioned in Annexure no. 1 are the persons who were promoted to the post of Cost Accountant from the post of Assistant Cost Accountant and their promotions were regularised later than regular appointment of the petitioner was made directly on the post of Cost Accountant through Public Service Commission. That is why in the confirmation order dated March, 1987 these 4 persons have been placed below the applicant. This position has also not been disputed by the respondents which will be evident from the circumstances stated hereinafter.

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Mohd. Hanif

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vii. That the supersession of the applicant is wholly arbitrary and malafide and violates fundamental rights guaranteed to the petitioner under Arts. 14 and 16 of the Constitution of India. Apart from the civil and penal consequences.

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iii. Because the State cannot be compelled to abide by the policy professed and declared by it.

iv. Because the supersession of the applicant is also violative of the fundamental rights of the applicant guaranteed under Art. 14 and 16 of the Constitution of India.

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Mohd. Hanif

(B) That a writ order or direction in nature of mandamus commanding to Opposite Parties to consider and promote the applicant on the post of Assistant Cost Accounts Officer from the date on which his juniors have been promoted, with all consequential benefits in the matter of pay, allowances and arrears arising there of and continuity in service on the post of Assistant Cost Accounts Officer.

(C) That any other and further relief which this Hon'ble Tribunal deems fit and proper may also be awarded in favour of applicant along with cost.

9. Interim order if any prayed for;

Nothing.

10. The humble applicant wants oral hearing through his counsel.

11. Particulars of postal orders;

Postal order No. 602409880 Dated 20.3.96

for Rs 50/- only.

VERIFICATION

I, Mohd. Hanif, Aged about 52 years, Son of Abdul Rahim, Resident of Quarter No. 67, Type III, Kendranchal Colony, Sec. K, All Ganj, Lucknow do hereby

Mohd. Hanif

(8)

verify that the contents of paragraphs 1 to 11 are true to my personal knowledge except para-5 which is true on the basis of legal advice received and that I havenot suppressed any material facts.

Application is being provided vide notification No. A-A.T.11019/44/87 dated 11th October, 1988.

Mehd. Hanif
Signature of the Applicant

Place: Lucknow

Dated: 20.3.90

Asit Kumar Chaturvedi
Advocate,
Counsel for the applicant

Annexure No 1

16

No. 7829c. Government of India
/A-12011(A.S.A.)/88/19A Dated, the 25 Nov. '88.

From: The Director General
Geological Survey of India
Calcutta.

To:

- 1) Sri Hari Mohan Chatterjee,
Cost Accountant, E.R.O.,
G.S.I., Calcutta.
- 2) Sri Madhu Sudan Singh,
Cost Accountant, CHQ,
GSI, Calcutta.
- 3) Sri Parimal Krishna De,
Cost Accountant, CHQ,
GSI, Calcutta.
- 4) Sri M. H. Dixit,
Cost Accountant, C.R.O.,
GSI., Nagpur.
- 5) ✓ Sri Devi Singh,
Cost Accountant, W.R.O.,
GSI., Jaipur.

Sub: Promotion to the post of Assistant Cost
Accounts Officer in G.S.I.

On the recommendation of the DPC, the Director General, G.S.I. has kindly approved of your promotion to the post of Assistant Cost Accounts Officer in the G.S.I. in a temporary capacity.

The terms and conditions of your appointment to the post of Assistant Cost Accounts Officer in G.S.I. are as follows:-

- a) Your pay in the grade of Assistant Cost Accounts Officer (Rs.2200-75-2800-EB-100-4000/-) will be fixed according to rules.
- b) Your promotion will take effect from the date you assume charge of the post of Assistant Cost Accounts Officer in the G.S.I. at the place indicated below after communication of these orders.
- c) You will be on probation for a period of two (2) years from the date of your appointment to the post of Assistant Cost Accounts Officer which may be extended at the discretion of the competent authority.

If you are agreeable to accept the aforesaid terms and conditions, you may receive charge of the post of Assistant Cost Accounts Officer at ERO., GSI

Mohd. Hanif

Contd.....pg/2

T.C.
Prof Chatterjee
H.S.

Annexure No 2

17

Copy of letter No. 9970A/T.File/Representation/89/
Estt. dated 19.9.1989 addressed to the Director (D),
Drilling Division, NR, GSI, Lucknow from the Sr. Dy.
Director General, NR, GSI, Lucknow.

**Sub: Representation of Shri Mohd. Hanif,
Cost Accountant, NR, GSI.**

**Ref: The Director General, GSI, Calcutta No.
4289C/A-32019/15/87-15A, dated 14.8.1989.**

With reference to the above, you are requested to intimate Shri Mohd. Hanif, Cost Accountant, N.R. that he was not eligible for promotion to the post of Assistant Cost Accounts Officer as on 10.11.1988 i.e. the date of D.P.C. as eligibility period was 5 years as per recruitment rules for promotion to the post of Assistant Cost Accounts Officer.

Sd/-
(S.K. Mukherjee)
Administrative Officer,
for Sr. Dy. Director General, NR.

*Trans copy
22/9/89*

Mohd. Hanif

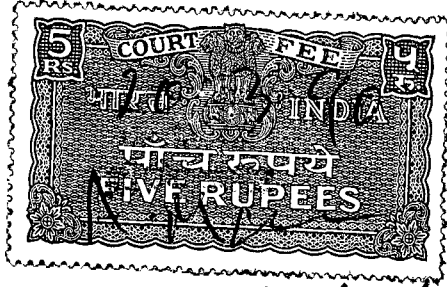
*T.C.
Asst. Chatterji
Adv*

ब अवालत श्रीमान

[दादी] अपीलान्ट

प्रतिवादी [रेस्पान्डेन्ट]

Central Administrative
Tribunal
महोदय
वकालतनामा



(अपीलान्ट)

Mohd. Hameed

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

मुकदमा नं०

सन्

Union of India and
पेशी की ता० १६ ई० ०७

ऊपर लिखे मुकदमा में अपनी ओर से श्री

Shri A. Prasad

वकील

महोदय

एडवोकेट

Asit Kumar Chaturvedi

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा छपर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

नाम अवालत
मुकदमा नं० नाम
फरीकन बनाम

Asit Chaturvedi

हस्ताक्षर

Mohd. Hameed

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

20

महीना

3

सन् १९९०

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT LUCKNOW

O.A.No. *26* of 1990(L)

Mohd. Hanif

... Applicant

Versus

Union of India & others

... Opp. Parties

I N D E X

-
1. Annexure No. 3
Copy of representation dated 5.10.89
-

Place: Lucknow

Dated: 20.3.90

Asit Kumar Chaturvedi
Advocate,
Counsel for the applicant

To

The Director General,
Geological Survey of India,
Calcutta - 16.

Annexure No 3

20

(THROUGH PROPER CHANNELS)

Subject:- Promotion of Cost Accountants to the post of
Assistant Cost Accounts Officers.

Reference:- (i) Your letter No. 4289C/A-32019/15/87-15A dated
14.8.89 addressed to the Sr. Dy. Director
General, G.S.I. N.R. Lucknow.
(ii) Letter of Sr. Dy. D.G. G.S.I. N.R. Lucknow
No. 9970A/T.File/Representation/89/Estt. dt.
19.9.89 addressed to the Director (Drilling)
G.S.I. Lucknow.

Sir,

In the above communications it was stated that I was not eligible for promotion to the post of Assistant Cost Accounts Officer as on 10.11.88 i.e., the date of D.P.C as eligibility period was 5 years as per recruitment rules for promotion to the post of Assistant Cost Accounts Officer. In this connection I submit the following for your perusal and favourable action please:-

1. I had been serving as Cost Accountant since 1st of March, 1974 when the other candidates who have been promoted would perhaps be serving as U.D.C's. My service as Cost Accountant in the Accounts Office, Ordnance Parachute Factory, Kanpur should have been counted for this purpose and I would have been promoted much earlier as Assistant Cost Accounts Officer.
2. Besides there are clear orders of the Govt of India in this regard. In this connection a reference is invited to Govt of India, Deptt. of Personnel and Training O.M. No. AB-14017/12/87-Est(R.R) dated 18th March, 1988 wherein all Ministries/Departments etc. were required to amend the recruitment rules for various posts to the effect that when Juniors who have completed the eligibility period are considered for promotion, their seniors would also be considered for promotion irrespective of whether they have completed the ~~probation~~ ~~probation~~ requisite service provided they have completed the probation period. It was also emphasised in the order and the Ministries/Departments were to ensure that Seniors who might have joined later due to various reasons are not overlooked for promotion.
3. I had completed the probation period and was confirmed in the post of Cost Accountant w.e.f. 5.2.87 vide your Office Order No. 2569C/A-32016/1/86/15A dt. 9.4.87.

Mohd. Hanif

T.C
Asst. Controller
Adm

4. From the above, it is clear that I have been ignored and not promoted in contravention of the existing orders of Govt. of India dt. 18.3.88 quoted above.

5. I had also asked for a copy of the order in which the promotion of Cost Accountants to the post of Asstt. Cost Accounts Officers was notified but the same has not been supplied. It is once ~~ng~~ again requested that the same may be made available to me.

6. In view of the foregoing, I once again request you to reconsider the whole matter and convene a review D.P.C and promote me to the post of Assistant Cost Accounts Officer from the ~~same~~ ^{same} date my juniors have been promoted restoring my seniority etc. You are also requested to give me all financial benefits of which I was entitled had due promotion been given to me at the proper time.

7. If no action is taken within ~~thirty~~ ^{sixty} days of the receipt of this application into the matter, I would be compelled to go to the Central Administrative Tribunal to seek justice. In that event the Govt/disciplinary authority shall also be responsible for any costs and special costs that may be awarded by the court of Law.

Hoping an early action in the matter.

Yours faithfully

Mohd. Hanif

(MOHD. HANIF)

COST ACCOUNTANT

GEOLOGICAL SURVEY OF INDIA

DRILLING DIVISION. LUCKNOW-20.

Dated: 5.10.1989

Regd. A.D.

Advance Copy forwarded to:

The Director General, Geological Survey of India,
Calcutta - 16.

Mohd. Hanif

(MOHD. HANIF)

COST ACCOUNTANT

Mohd. Hanif

T.C. Mohd. Hanif

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

M.P. No. 211/91 (L)
O.A. NO. 87 of 1990(L)

Mad. Haring
~~K.K. Narang and others~~ ... Applicants

-versus-

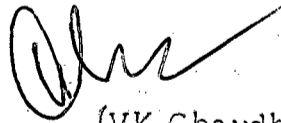
Union of India and others .. Opposite parties.

APPLICATION FOR CONDONATION OF DELAY.

The opposite parties beg to submit as under:-

1. That due to some inadvertance and oversight, counter affidavit could not be filed within the stipulated time on behalf of the opposite parties.
2. That now the counter affidavit is ready for filing and is being filed herewith along with this application and it is expedient in the interest of justice that the accompanying counter affidavit be taken on record after condoning the delay in filing the counter affidavit.

Therefore it is most humbly prayed that the accompanying counter affidavit may very kindly be taken on record.



(VK Chaudhari)
Addl Standing Counsel for Central Govt
(Counsel for the Opp. parties)

Lucknow,

Dated: 18-4-91

Filed today
SK
18/4/91

23

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. NO. 87 of 1990 (L)

Mohd Hanif .. Applicant

-VS-


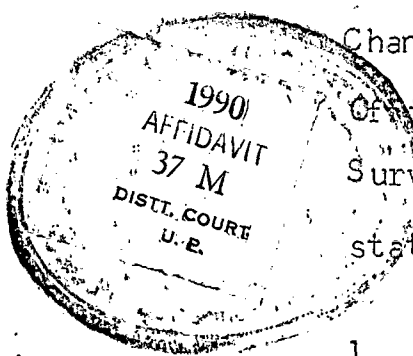
Union of India and others .. Opposite parties

COUNTER AFFIDAVIT ON BEHALF OF
OPPOSITE PARTIES.

I, Suraj Prakash, aged about 51 years, son of late Chanah Ram at present posted as Regional Administrative Officer in the office of Deputy Director General, Geological Survey of India, Lucknow do hereby solemnly affirm and state as under:-

1. That the deponent has been authorised to sign this counter affidavit on behalf of all the opposite parties.
2. That the deponent has read and understood the contents of application filed by the applicants as well as the facts deposed to herein under in reply thereof.
3. That the deponent is well conversant with the facts of the case.

4. That before giving parawise comments it is pertinent to give brief history of the case as

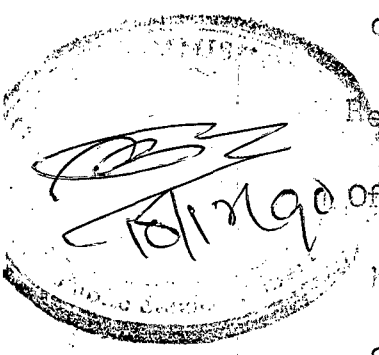


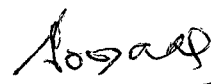
As per
Regional Administrative Office
Northern Region
Geological Survey of India
LUCKNOW

detailed below:-

That one Md. Hanif was appointed as Cost Accountant in Geological Survey of India as a direct recruit with effect from 27.4.1984. The last DFC for promotion to the post of Asstt. Cost Accounts Officer in GSI was held on 10.11.1988. The name of Md. Hanif was placed before the DFC along with others for consideration. As he did not complete the 5 year regular service in the feeder grade of Cost Accountant at the time of holding the DFC ie. 10.11.1988 the DFC could not recommend him for promotion to the post of Asstt. Cost Accounts Officer.

5. That the contents of paras 1 to 3 of the application are formal as such needs no comments.
6. That the contents of para 4(i) of the application are not disputed.
7. That in reply to the contents of para 4(ii) of the application it is submitted that as per the then Recruitment Rules in the grade of Assistant Cost Accounts Officer the posts were filled 100% by promotion on selection basis. As per existing recruitment rules in the grade of Asstt. Cost Accounts Officer the posts are filled (i) 50% by promotion failing which by transfer on deputation, (ii) 50% by transfer on deputation, failing which by




 Regional Administrative Officer
 Northern Region
 Geological Survey of India
 LUCKNOW

direct recruitment on selection basis.

8. That in reply to the contents of para 4(iii) of the application it is submitted that in the last D.P.C. the name of Md. Hanif, Cost Accountant was considered alongwith others for promotion to the post of Asstt. Cost Accounts Officer but since he did not complete 5 years regular service in the feeder grade as required under Recruitment Rules, he was not recommended by the D.P.C.

9. That the contents of para 4(iv) of the application are not disputed except the date of issuance of the confirmation order which was issued on 9.4.1987 and not in March 1987 as stated by the applicant.

10. That the contents of para 4(v) of the application are admitted to the extent that the Northern Regional Office was informed under letter No.4289C/A-32019/15/87-15A dated 14.8.1989 about the reason for not being considered to the post of Assistant Cost Accounts Officer as he was not eligible for promotion to the post of Assistant Cost Accounts Officer. The last DPC for promotion to the post of Asstt. Cost Accounts Officer was held on 10.11.1988. The Circular dated 18.2.1988 as referred to by Md. Hanif ~~the applicant~~ was not available in the office of the deponent at the time of holding

Regional Administrative Officer
Northern Region
Geological Survey of India
LUCKNOW

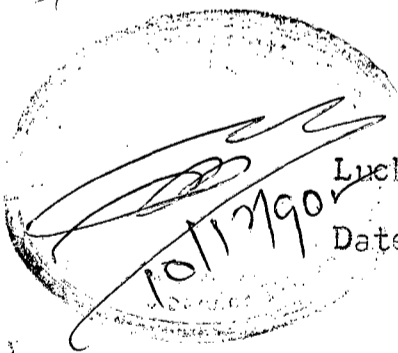
the D.P.C. Moreover, the Recruitment Rules is also to be amended accordingly.

11. That in reply to the contents of para 4(vi) of the application are reiterated the reply given against para 4(v) of the application above.

12. That the rest of the paragraphs contained in the application needs no comments.

13. That the grounds taken by the applicant and reliefs sought by the applicant are not tenable in the eyes of law as such the applicant is not entitled to get any relief.

14. That in view of the facts, reasons and circumstances stated above, the application filed by the applicant is liable to be dismissed with costs to the opposite parties.



Lucknow

Dated: 10.12.70

M

Verification.

10/12/70
Regional Administrative Officer
Lucknow Region
Geological Survey of India
LUCKNOW

I, the above named deponent do hereby verify that the contents of para 1 & 2 of the affidavit are true to my personal knowledge, those of paragraphs 3 to 12 of the ^{affidavit} application are believed to be true on the basis of information gathered and office records

and those of paragraphs 13 and 14 are also believed to be true on the basis of legal advice. No part of this affidavit is false and nothing material fact has been concealed.

Deponent
Deponent,
Regional Administrative Officer
Northern Region
Geological Survey of India
LUCKNOW

Lucknow,

Dated: 10.12.90

h

I identify the deponent who

was signed before me and is also personally known to me.

(VK Chaudhari)
Addl Standing Counsel for Central Govt
(Counsel for opp. parties)

Solemnly affirmed before me by the deponent *10/12/90* this *10th* day of *Dec* 1990 at *10:30 am/pm* who has been identified by Shri VK Chaudhari, Advocate High Court, Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read over and explained to him by me.

10/12/90

10/12/90
Oath Commissioner.

28

P-
F.P. 24.4.91

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT LUCKNOW

M. P. No. 120/91 (2)

O.A.No. 87 of 1990(L)

Mohd. Hanif

...Applicant

Versus

Union of India & others

...Opp. Parties

APPLICATION FOR SUMMONING OF DOCUMENTS

The applicant above named most respectfully begs to submit as under;

That through the above mentioned application the applicant has claimed for promotion to the post of Assistant Cost Accounts Officer from the date of which his Juniors have been promoted and has also challenged the order dated 14th August, 1989.

Therefore, it is most respectfully prayed that for the reasons stated in the accompanying Rejoinder Affidavit, the Hon'ble Tribunal may be pleased to direct the Opposite Parties to produce before the Hon'ble Tribunal the O.M. No. AB-14017/87-EST.(RR), dated 18th March, 1988, Recruitment rules, complete departmental promotion committee proceedings, record of the persons junior to the applicant who have been promoted and relaxation

P
Filed today
SSP
15/3/91

Mohd Hanif

of experience correspondence between Geological Survey of India and Government of India at the time of hearing of the case before the Tribunal .

Subamp

Place: Lucknow

Dated: 15-3-91

Ajit Kumar Chaturvedi

Advocate,
Counsel for the applicant

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

O.A.No. 87 of 1990(L).

Mohd. Hanif ...Applicant

Versus

Union of India & others ...Opp.Parties

Rejoinder Affidavit to the Supplementary Counter Affidavit on behalf of Opposite Parties filed by Sri SurajPrakash.

The petitioner most respectfully begs to submit as under;

1. That the contents of paragraphs 1,2 and 3 of the Supplementary Counter Affidavit need no reply

2. That the contents of paragraph 4 of the supplementary counter affidavit are denied. It is stated that the persons junior to the applicant in seniority on the post of Cost Accountant have been considered and promoted as Assistant Cost Accountant Officer. The name of the applicant was not considered by the departmental promotion committee. The applicant is entitled for promotion on the post of Assistant Cost Accounts Officer in terms of O.M. No.AB-14017/12/87-Est.(RR) dated 18th March, 1988. It is here relevant to be stated that the applicant has worked as Cost Accountant in Accounts Office of the Ordinance Parachute Factory, Kanpur with effect from 1.3.1974 to 26.4.1984. The applicant was relieved by the Ordinance Parachute Factory, Kanpur on 26.4.1984^(AM) for joining in the Geological Survey of India as the applicant applied for the post of Cost Accountant in Geological Survey

Handwritten signature

(2)

of India, through proper channel. The applicant is also eligible for promotion to the post of Assistant Cost Accounts Officer, keeping in view his experience in Ordnance Parachute Factory, Kanpur on the post of Cost Accountant. The Opp Parties have wrongly stated in the affidavit under reply that the name of the applicant was considered by the Departmental ~~Senior~~ Promotion Committee. The Hon'ble Tribunal may be pleased to direct the Opposite Parties to produce the complete proceedings of Departmental Promotion Committee before the Tribunal at the time of hearing.

3. That the contents of paragraph 5 & 6 of the supplementary counter affidavit need no reply.

4. That the contents of paragraph 7 of the counter affidavit are denied and those of paragraph 4(ii) of the application are reiterated as correct. It is stated that the promotion to the post of Assistant Cost Accounts Officer is made from the ~~post of~~ Cost Accountant on the basis of seniority subject to rejection of unfit. The departmental promotion committee is to only consider the fact that the candidates eligible in accordance with seniority are fit for promotion or not. No selection is held in which eligible candidates are called for selection ^{interview}

Submitt

(3)

5. That the contents of paragraph 8 of the supplementary counter affidavit as alleged are wrong hence denied and those of paragraph 4(iii) of the application are reiterated as correct. It is stated that the name of the applicant was withheld from the Departmental Promotion Committee and the name of the applicant was not considered by the Departmental Promotion Committee. The applicant possess requisite experience on the post of Cost Accountant as he has already served for 10 years in Ordinance Parachute Factory, Kampur as Cost Accountant. The applicant also possess the required qualification for the post of Assistant Cost Accounts Officer i.e. final examination from the Institute of Cost and Works Accountant of India, Calcutta (ICWS). The applicant is entitled for promotion as persons junior to him in seniority list on the post of Cost Accountant have been considered and promoted as the Govt. of India through O.M. dated 18th March, 1988 has held that when junior to a person completed the eligibility period ^{are} ~~or~~ considered for promotion then seniors will also be considered irrespective of whether they have completed the requisite service, provided they have completed the probation period. The applicant has already completed the probation period and has been confirmed on the post of Cost Accountant. The Hon'ble Tribunal may be pleased to direct the Opposite Parties to produce O.M. dated 18th March, 1988 before the Hon'ble Tribunal at the time of hearing of the application along with the relevant service rules which have been referred in the supplementary

Subramanyam

(4)

counter affidavit under reply.

6. That the contents of paragraph 9 of the supplementary counter affidavit need no reply.

7. That the contents of paragraph 10 of the supplementary counter affidavit as alleged are wrong hence denied., and those of paragraph 4(v) of the application are reiterated as correct. It is stated that the O.M. dated 18th March, 1988 has been issued by the Government of India for all employees and departments of Govt. of India including Geological Survey of India. The copy of the O.Ms. are sent to all the ministries and departments of Govt. of India including Geological Survey of India. The Opp. Party i.e. Geological Survey of India cannot plead the ignorance of O.M. dated 18th March, 1988. However, a liason office of Geological Survey of India is situated in New Delhi for the purposes of liason with Govt. of India and receiving the various Government orders/O.Ms./ directions issued by the Government of India. The Opposite Parties have pleaded in the paragraph under reply that the name of the applicant was not considered by the promotion committee. However, in the earlier part of the supplementary counter affidavit it has been pleaded that the applicant was considered by the Departmental Promotion Committee. The applicant cannot be deprived of his rights in terms of the O.M. dated 18th March, 1988, if the relevant rules have not been amended accordingly. The applicant is entitled for benefits in terms of

Subramanian

(5)

O.M. dated 18th March, 1988. More over the applicant possess experience of more than 14 years on the post of Cost Accountant including additional qualification of I.C.W.A. which is required for the post of ^{Asstt.} Cost Accountant Officer. No other candidates except the applicant possess the certificate of I.C.W.A. Through various judgments reported in 1986 S.C.C. (L&S) 622, A.I.R. 1988, SC. 335 and 1989 (9) ATC. 491, the applicant is entitled for the benefit of the experience possess by him while working in the earlier departments.

8. That the contents of paragraph 11 of the supplementary counter affidavit as alleged are wrong hence denied, and those of paragraph 4(vi) of the application are reiterated as correct.

9. That the contents of paragraph 12 of the supplementary counter affidavit need no reply.

10. That the contents of paragraph 13 and 14 of the supplementary counter affidavit are vehemently denied. It is stated that the application is tenable in the eyes of law and deserves to be allowed by granting all the reliefs claimed by the applicant. It is here relevant to be stated that the Opposite Parties ^{have} referred the question of relaxation of experience on the post of Cost Accountant to Government of India in 1986 and the said question is yet pending

Interim

consideration before the Govt. of India. According to the proposal only 3 years experience is required on the post of cost accountant for promotion to the post of Asstt. Cost Accounts Officer. The Hon'ble Tribunal may be pleased to direct the Opposite Parties to produce the complete records pertaining to request for relaxation referred to Govt. of India before the Hon'ble Tribunal at the time of hearing of the application. In spite of vacancies the post of Assistant Cost Accounts Officer has not been filled up by the respondents. In similar circumstances Sri O.P. Sachdeva, Artist was promoted to the post of Senior Artist but in case of the applicant no action has been taken in regards to promotion of the applicant on the post of Assistant Cost Accounts Officer. Without waiting for the relaxation the opposite parties have held the selection.

VERIFICATION

I, Mohd. Hanif, Aged about 53 years, Son of Abdul Rahim, Resident of Quarter No. Type III/67, Kendranchal Colony, Sector K, Aliganj, Lucknow do hereby solemnly affirm and state on oath as under;

That the deponent is the applicant in the above mentioned application as such he is well conversant with the facts and circumstances of the case.

Nothing material has been concealed and

Mohd Hanif

no part of it is false, so help me God.

Signed and verified on this ¹⁵ day of ^{March} ~~February~~, 1991 at Lucknow.

[Signature]
APPLICANT/DEPONENT

I, identify the above named deponent who has signed before me.

Asit Kumar Chattervedi
Advocate.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. NO. 87 of 1990(L)

Mohd. Hanif

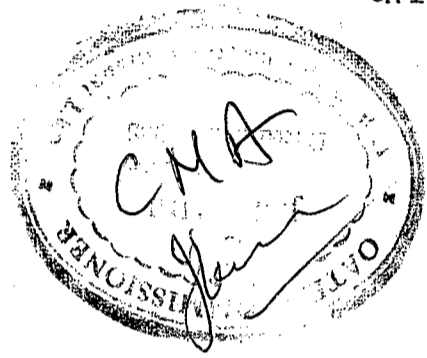
.. Applicant

-versus-

Union of India and others

.. Opposite parties

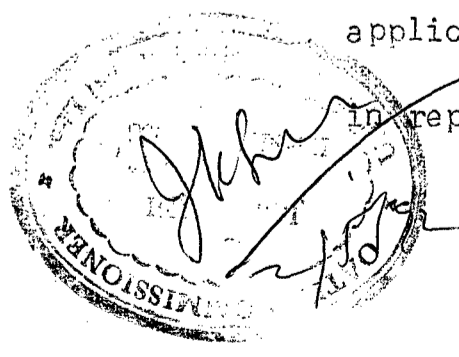
SUPPLEMENTARY COUNTER AFFIDAVIT ON BEHALF
OF OPPOSITE PARTIES.



I, Suraj Prakash, aged about 52 years,

son of late Chanam Ram at present posted as
Regional Administrative Officer in the office
of the Deputy Director General, Geological
Survey of India, Lucknow do hereby solemnly affirmed
and state as under:-

1. That the deponent has been authorised to file this supplementary counter affidavit on behalf of all the opposite parties.
2. That the deponent has read and understood the contents of rejoinder application filed by the applicant as well as the facts deposed to hereinunder in reply thereof.



Suraj Prakash

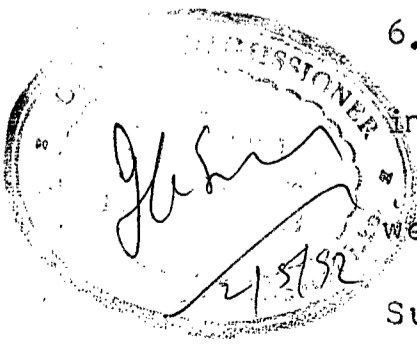
-2-

3. That the deponent is well conversant with the facts of the case.

4. That it is necessary to give some new facts, which have not included in ~~the~~ our counter affidavit before deciding the case on merits in the ends of justice as under:

5. That the applicant was entitled for promotion to the post of Asstt. Cost Accounts Officer with effect from 27.4.1989 ie. after completion of 5 years regular service in the grade of Cost Accountant. Accordingly, on completion of 5 years regular service by the applicant in the grade of Cost Accountant, a D.P.C. was held on 30.8.1989 and the name of the applicant was considered along with others for promotion to the post of Asstt. Cost Accounts Officer against a reserved vacancy. A ~~xxx~~ dereservation proposal has already been sent to the Ministry for approval.

6. That as per the then Recruitment Rules in the grade of Asstt. Cost Accounts Officer, the posts were filled 100% by promotion on selection basis. Subsequently, the Recruitment Rules have been changed and as per existing Recruitment Rules in



Agarwal

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

M. P. 424/92

O.A. NO.87 of 1990(L)

Md. Hanif

.. Applicant

-versus-

Union of India and others .. Respondents

APPLICATION FOR CONDONATION OF DELAY

The Respondents above named begs to

submit as under:-

That the counter affidavit could not be filed earlier due to certain administrative reasons and now the counter is ready for filing and being enclosed herewith alongwith this application. It is therefore requested to kindly take the accompanying counter affidavit on record after condoning the delay.

Filed today
CSP
15/5/92

P R A Y E R.

It is therefore requested to kindly condone the delay in filing the accompanying counter affidavit and take the same on record in the ends of justice.

(VK Chaudhari)

Addl. Standing Counsel for Central Govt

Lucknow,

Dated: 15 May 1992.

R.C. today
12-5-92

-3-

the grade of Asst. Cost Accounts officer, the posts are to be filled up on ~~ee~~ selection basis (i) 50% by promotion with 5 years regular service in the grade of Cost Accountants, failing which by transfer on deputation (iii) 50% by transfer on deputation failing which by direct recruitment.

7. That a D.P.C. was held on 10.11.1988 for promotion to the post of Asstt. Cost Accounts officer and the name of the applicant was placed before the D.P.C. alongwith others for consideration, but the D.P.C. did not consider his name for promotion to the post of Asstt. Cost Account officer as he did not complete 5 years of Asstt. Cost Account officer as he did not complete 5 years regular service in the grade of Cost Accountant at the time of holding the D.P.C. The Government of India O.M. dated 18.3.1988 was not available in the office of the deponent at the time of holding the D.P.C. on 18.11.1988.

8. That Shri U.P. Sachdeva has been promoted to the post of Chief Artist on 15.3.1990 and not to the



Asaad

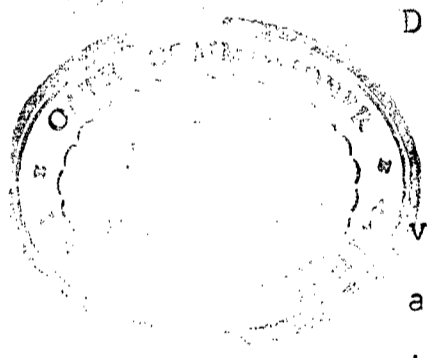
the post of Chief Artist on 15.3.1990 and not to the post of Senior Artist. He fulfilled all the conditions for being eligible for promotion. The case of the applicant is not the similar to the case of Shri O. P. ~~Sax~~ Sachdeva.

9. That for the facts and circumstances stated in the foregoing paragraphs as well as the facts mentioned in our counter affidavit the application filed by the applicant ~~may~~ is liable to be dismissed with costs to the Respondents.

Bozard
Deponent.

Lucknow,

Dated: 2-5-92



Verification.

I, the above named deponent do hereby verify that the contents of para 1 & 2 of the affidavit are true to my personal knowledge and those of paras 3 to 8 of the affidavit are believed to be true on the basis of information gathered and office records and those of paragraph 9 of the affidavit is also believed to be true on the basis of legal advice. No part of this affidavit is false and nothing material fact has been concealed.

Bozard
Deponent.

Jeetendra Lucknow,
Court Compt. Dated: _____
Date: _____

I identify the deponent who has signed before me and is also personally known to me,

Chaudhari
(K Chaudhari)

11-50 PM
Jeetendra

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Review Application No. 701 of 1992

In

Original Application No. 87 of 1990(L)

Mohd. Hanif Applicant

Versus


Union of India and others Respondents.

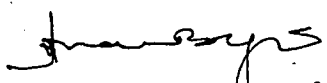
Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. B. Gorthi, Member (A)

(By Hon'ble Mr. Justice U.C. Srivastava, VC.)

This review application is directed against our judgement and order dated 28.5.1992. The case was heard and disposed of after hearing the counsel for the parties. The scope of review application is limited and same does not mean re-consideration of the fresh or the very same argument on the same question. The discovery of certain cases not cited earlier will not be a ground for entertaining a review application. It is not the case of the applicant that the Government of India's order was not to his knowledge despite due diligence, if subsequently, some order came to the notice of a party, which should have come to his knowledge earlier, in case efforts should have been made which also being not a ground for entertaining a review application. All the relevant pleas have been taken into account by us and thereafter, the judgement in question was delivered. There is no error apparent on the face of the record and accordingly, the review application has got to be rejected and it is rejected.


V.C.

 A.M.
Lucknow Dated 24th Nov 1992.
(RKA)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW CIRCUIT BENCH LUCKNOW.

REVIEW PETITION AGAINST THE JUDGEMENT IN
O.A. No. 87/90 (L)

MOHD. HANIF V/S UNION OF INDIA AND OTHERS

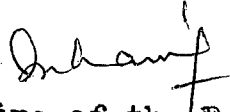
REVIEW PETITION BY THE PETITIONER.

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Lucknow.

Dated. 14.8.1992


Signature of the Petitioner

7/1/92

IN THE HON'BLE ADMINISTRATIVE TRIBUNAL Deputy Registrar(J)

LUCKNOW CIRCUIT BENCH LUCKNOW.

REVIEW PETITION OF THE APPLICANT UNDER SECTION 22 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL ACT READ WITH RULE 17 OF CENTRAL ADMINISTRATIVE PROCEDURE RULE 1987.

in Re 701/92

O.A. No. 87/90 (L)

Mohd. Hanif

Petitioner

versus

Union of India and others

Opposite Parties

F.T.
17-8-92

The petitioner submits the review petition against the judgement dated 28th May, 1992 passed by the Hon'ble Mr. Justice U.C.Srivastava and Hon'ble Mr. Justice A.B.Gorthi Admn. Member in O.A. No. 87/90 (L).

The petition is within the limitation period prescribed in Section 21 of the Administrative Tribunals Act, 1985 in as much as the aforesaid judgement was not available in the Registry of the Central Administrative Tribunal, Lucknow till 14th July, 1992. On personally contacting the registry of the Hon'ble C.A.T., the petitioner was told that the judgement was received ~~xxx~~ but no date was indicated by the Hon'ble Court. Hence the copy of the aforesaid judgement could be made available to the petitioner not early than 22.7.92.

Mohd Hanif
14/8/92

GROUND FOR REVIEW OF JUDGEMENT:

1. The Hon'ble Tribunal in their order dated 28.5.92 have allowed application of the petitioner and accepted in principle that the petitioner was illegally and arbitrarily ignored by the respondents at the time of holding D.P.C. on 10.11.88. Though the respondents have been directed to hold a Review D.P.C. and give notional promotion to the petitioner from the same date his juniors were promoted but denied the actual benefits of promotion from retrospective date. Such denial of promotional benefits tantamounts to denial of promotion to the petitioner and the redressal of his grievance.
2. F.R. 17(1) cannot be made applicable in this case as it is the wrong acts and ~~wilful~~ wilful violation of the Govt. orders by the department which have deprived the petitioner unlawfully from assuming the higher post and discharging the duties of that post.
3. Provisions of F.R. 27 cannot also be made applicable in the case of the petitioner as he was neither given any adverse remarks in the CRs nor they were tone down or expunged.
4. The Hon'ble C.A.T. has not considered the statement of the petitioner that the respondents plea to the effect that the Govt. of India O.M. dated 18.3.88 was not available with them at the time of holding D.P.C. on 10.11.88 is not an excuse for the respondents to ignore the petitioner in considering the cases ~~from~~ for promotion to the post of Asstt. Cost Accounts Officer.

Subramanian
14/8/92

Moreover, in a similar case filed by Shri Rajendra Sharma Geoh (Jr) in Bangalore Bench of the Tribunal (a copy of which was also given to be Hon'ble Tribunal and this case also finds a reference in the judgement of the petitioner) the respondents did not deny that the Govt. of India, O.M. dt. 18.3.88 was not available with them but said that since the proposal of promotion was sent to the Ministry on 16.3.88, the O.M. dated 18.3.88 is not applicable in that case.

Besides, a liaison office is also situated in New Delhi of the Geological Survey of India for the purpose of liaison with Govt. of India and for receiving the various Government orders/O.M.'s/directions issued by the Govt. of India.

Therefore, it goes without saying that ignorance of the respondents about the Govt. of India Orders contained in O.M. dated 18.3.88 is only a lame excuse and the application of all statutory orders vis-a-vis orders of the Govt. of India at 18.3.88 is statutory requirement and the petitioner cannot be made a sufferer because of the alleged ignorance of the respondents.

5. The Hon'ble Tribunal has ignored the undermentioned Rulings and judgements passed by the Supreme Court and the Central Administrative Tribunals in various similar cases and also contradicted their own judgement/^{Annexed as Annexure No. 2,} passed in O.A. No. 232/90 and 238/90 --- Nirankar Sharma, Avtar Singh versus Director General, Geological Survey of India, Calcutta and others and gave two different verdicts in the identical cases.

*Adhamp
14/12/82*

RULINGS:-

- i. P.S.Mahal Versus Union of India
reported in A.I.R. 1984 S.C. 1291.
In this case it has been decided that if any Govt, servant is denied promotion for no fault of his, he should be given retrospective promotion and that would entitle him to the arrears of his Pay and Allowances.

- ii. C.A.T. Lucknow. O.A. 232 of 1990 and 238 of 1990 --- Nirankar Sharma, Avtar Singh versus Director General, Geological Survey of India, Calcutta and others.
Held: Hon'ble Tribunal granted arrears of salary and allowances and other benefits from 1977.

- iii. C.A.T. Calcutta T.A. No. 1073:
Seniority and Promotion:- Employee deprived of promotion without any fault.
Held: Entitled to retrospective promotion with arrears of salary.

- iv. C.A.T. Bombay. T.A. No. 88:-
Seniority and Promotion:- Wrongful supersession.
Held: Entitled to arrears of pay in the higher post notwithstanding that he had not worked in that post.

- v. C.A.T. Bangalore. O.A. No. 135 of 1991.
Rajendra Sharma versus Union of India & others.
Held: Promotion ordered with effect from the same date juniors were promoted with all the benefits.

Subawf
14/8/92

vi.

C.A.T. Lucknow. O.A. No. 51 of 1990.

B.N. Bhartiya Versus Union of India & others.

Held: Promotion ordered with effect from 1989 with all the benefits.

PRAYER

Wherefore it is prayed that in the facts and circumstances of the case, the Hon'ble Tribunal may be pleased to allow the Review Petition and order the financial benefits with retrospective effect in favour of the petitioner.

Lucknow.

Anil Kumar
Petitioner

Dated: 14.8.92

VERIFICATION

I the above named petitioner do hereby verify that the contents of Paras 1 to 5 of the Review Petition are true to my personal knowledge and legal advice and nothing material has been concealed. So help me God.

Lucknow

Anil Kumar
Petitioner

Dated. 14.8.1992

UNION PUBLIC SERVICE COMMISSION, DELHI

DELHI

O.A.No. 87/90

Mohd. Hanif

Applicant

versus

Union of India and others

Respondents.

Shri A.K. Chaturvedi

Counsel for Applicant.

Shri V.K. Chaudhari

Counsel for Respondents.

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

Hon. Mr. A.B. Gorthi, Adm. Member.

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

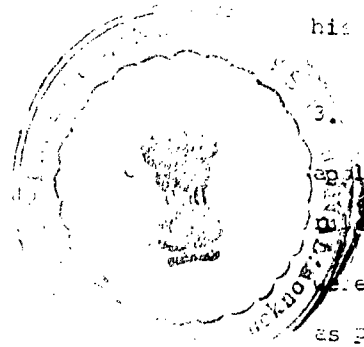
By means of this application the applicant has challenged the order of promotion dated 25.11.88 promoting the persons who were junior to the applicant to the higher post and the order dated 14.8.89 through which the rejection order mentioned therein dated 9.9.88 has been communicated to him.

The applicant started his service career in the Finance Accounts of the Union of India. He was selected by the Union Public Service Commission for the post of Cost Accountant in the C.S.I. and in pursuance of the selection he joined there on 27.4.64. The next promotional post of Assistant Cost Accounts Officer was to be filled by way of promotion on the basis of seniority, subject to rejection of unfit from amongst the cost accountants. According to the applicant, although he was fully eligible but the promotions were



W

made through order dated 25.11.99 and the persons junior to the applicant were promoted. Out of the five persons, four were appointed as such from the post of Assistant Cost Accountant and their promotions were regularised and later on regular appointment of the applicant was made through U.P.S.C. on the post of Cost Accountant and in the list these 4 persons have been placed below the applicant. The applicant made representation to the Director General which was rejected and in the it was pointed out that the applicant was not considered for the post by the D.P.C. as he did not have 5 years service on the post of Cost Accountant as on 10.11.88, i.e. on the date when the D.P.C. met. The applicant has, thus challenged his supersession and has approached this Tribunal.



3. The respondents have opposed the claim of the applicant and have pointed out that as per recruitment rules the post of Assistant Cost Accounts Officer are filled 100% by promotion on selection basis and as per existing rules the posts are filled (i) 50% by promotion failing which by transfer on deputation, (ii) 50% by transfer on deputation, failing which by direct recruitment on selection basis and the applicant was not considered by the D.P.C. since he did not complete five years of regular service in the feeder cadre as required under the new recruitment rules. The applicant has placed reliance on the circular dated 18.2.88 regarding which it has been stated that the same was not

W

available in the office of the respondents at the time of holding D.P.C. It has been stated that he was entitled to be promoted with effect from 27.4.89 after completion of five years of service and the D.P.C. met on 30.8.89 and the name of the applicant was considered against the reserve vacancy for the post of Assistant Cost Accounts Officer and a reservation proposal had already been sent to the Ministry for approval. The applicant has claimed promotion on the basis of the said O.M. dated 18.3.88. It has been stated that the applicant had worked as Cost Accountant in the Ordnance Parachute Factory, Kanpur with effect from 1.3.74 to 26.4.84 and he was relieved from there on 26.4.84 for joining in G.S.I. and the entire period was to be counted towards the period that the applicant had completed more than five years of service



Vide O.M. dated 18.3.88 all the Ministries/ Departments were advised to insert a note in the Recruitment Rules for various posts to the effect that when juniors who have completed the eligibility period are considered for promotion, their seniors would also be considered for promotion irrespective of whether they have completed the requisite service, provided they have completed the probation period. It was also emphasised that the Ministry/Department to ensure that the seniors are not overlooked for promotion.

5. A similar matter came up for consideration before the Bangalore Bench of this Tribunal in O.A.

W

No. 135 of 1991 'Shri Rajendra Sharma vs. The Director
 5
 G.S.I. Calcutta and/others' and in the said case the
 respondents' plea that the D.P.C. proposal was sent
 to the Ministry before the issue of O.I. dated 18.3.68
 was rejected and the application was allowed and the
 respondents were directed to constitute a review
 D.P.C. for assessment of the case of the applicant
 alongwith that of his juniors within a period of 3 months
 from the date of receipt of copy of the order and
 promoted from the date his juniors were promoted.
 This application is allowed and the respondents are
 directed to convene a Review D.P.C. within a period of
 3 months. In case the applicant is found fit he may be
 given notional promotion with effect from the date his
 juniors were promoted and the actual benefits from the
 date of actual promotion.



6. With the above observations the application is
 disposed of with no orders as to costs.

Sd/-
 Adm. Member.

Sd/-
 V.C.

Lucknow: Dated - 28.5.92

Shakeel/

Certified Copy

[Signature]
 Incharge 21/7/92

Judicial Section
 C. A. T.
 LUCKNOW.

C/A

Annexure no. 2

10

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
LUCKNOW CIRCUIT BENCH

Registration O.A. No.232 of 1990

Niranker Sharma Applicant

Versus

The Director General, GSI
Calcutta & Others..... Respondents

Connected with

Registration O.A. No.238 of 1990

Avtar Singh Applicant

Versus

The Director General, GSI
Calcutta & Others Respondents

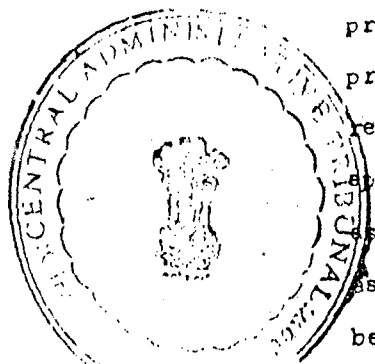
Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B. Gorthi, Member (A)

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

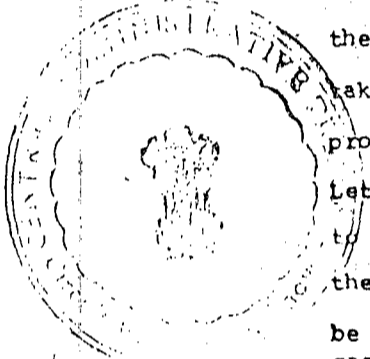
(in O.A. 232 of 1990) ✓

The applicant who was working on the post of JTA(S) in the Geological Survey of India was promoted at a later date while his juniors were promoted earlier has prayed this Tribunal claiming relief against the same. During the pendency of this application, the respondents considered the position as is evident from the documents before us as well as Supplementary Counter Affidavit in which it has been stated that the Review D.P.C. was held on 12.2.91 and the same has recommended notional promotion of the applicant now redesignated as JTA(S) with effect from 1.8.77 i.e. the date his juniors took over the charge on the post of Surveyor (Sr) but the applicant will get the benefit only from the date of their actual taking over charge in the higher grade of Surveyor. Thus the applicant has been given



Handwritten signature/initials

retrospective promotion and his grievance has been removed. But he has been deprived of financial benefits to which he is entitled to. The applicant is entitled to the financial benefits with effect from the date he has been promoted and in this connection he has made a reference to P.S. Mahal Vs. Union of India reported in AIR 1984 SC 1291 in which it has been decided that if any Govt. servant is denied promotion for no fault of his, he should be given retrospective promotion and that would entitle him to the arrears of his Pay & Allowances. He has also made reference to certain decisions of this Tribunal taking the same view. We also agree with the same. Accordingly respondents are directed to pay the arrears of salary and allowances and other benefits taking into consideration of those who have been promoted to the post of JTA(Sr) with effect from 1977. Let the payment and other benefits be made available to the applicant within a period of three months from the date of communication of this order. There will be no order as to costs. This judgement also governs the case O.A. No.238/90 Avtar Singh Vs.DG,GSI Calcutta & Others.



Member (A) Vice Chairman

Dated the 5 July, 1991.

RKM

Attested
True copy

C.T.C.

117

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

REVIEW APPLICATION No. 1080/92

In

O.A. No. 87/90

Mohd. Hanif

Applicant

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.)

This review application is directed against our judgment and order dated 29.5.92. The review application is apparently barred by time. According to the applicant, earlier application filed by the applicant is not traceable. The cases filed by the applicants are entered in the register. Even otherwise the review application has no merit as the scope of review application is limited and does not mean re-hearing. We cannot sit in appeal over our own judgment. The review application also does not mean consideration of the same questions which have been considered earlier and we have already considered all the points. In our opinion there is no error much less apparent on the face of record and the review application is rejected.


A.M.


V.C.

Shakeel/-

Lucknow: Dated 10.12.92.

M.P. NO 1079/92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW CIRCUIT BENCH LUCKNOW.

REVIEW PETITION NO. 1080

in

O.A. NO. 87/90 (L)

MOHD. HANIF V/S UNION OF INDIA AND OTHERS

The petitioner submits that he submitted the review petition previously on 17.8.92 in the office of the C.A.T. Lucknow which was well within the limitation period. But on enquiry after about two months the petitioner knew that this review petition was not traceable in the records of the C.A.T.

In this connection an application dt. 20.10.92 was moved with the prayer that the same may kindly be traced. It has now been learnt that Hon'ble Tribunal have very kindly granted permission to apply for condonation of delay in the matter.

The petitioner, therefore, prays, that the delay in the matter may kindly be condoned and the review petition may be considered.

LUCKNOW

DATED. 23.11.92

Mohd Hanif
Signature of Petitioner 23/11/92

F.T.
24-11-92
①

This is the application
of condonation of delay for
filing review, the
place before me
have been with
the misc application
dated 20.10.92 on 27-11-92
23.11.92

11/11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW CIRCUIT BENCH LUCKNOW.

REVIEW PETITION NO. 1080/92

REVIEW PETITION AGAINST THE JUDGEMENT IN

O.A. NO. 87/90 (L)

MOHD. HANIF V/S UNION OF INDIA AND OTHERS

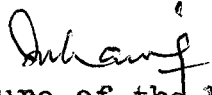
REVIEW PETITION BY THE PETITIONER.

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Lucknow.

Dated. 19.11.1992


Signature of the Petitioner

In view of the above, petitioner prays that the delay occurred in the case may kindly be condoned and the Review Petition considered and the Honourable Cat may pass such orders as may deem fit after due consideration of the Review Petition.

GROUND FOR REVIEW OF JUDGEMENT:

1. The Hon'ble Tribunal in their order dated 28.5.92 have allowed application of the petitioner and accepted in principle that the petitioner was illegally and arbitrarily ignored by the respondents at the time of holding D.P.C. on 10.11.88. Though the respondents have been directed to hold a Review D.P.C. and give notional promotion to the petitioner from the same date his juniors were promoted but denied the actual benefits of promotion from retrospective date. Such denial of promotional benefits tantamounts to denial of promotion to the petitioner and the redressal of his grievance.
2. F.R. 17(1) cannot be made applicable in this case as it is the wrong acts and wilful violation of the Govt. orders by the department which have deprived the petitioner unlawfully from assuming the higher post and discharging the duties of that post.
3. Provisions of F.R.27 cannot also be made applicable in the case of the petitioner as he was neither given any adverse remarks in the CRs nor they were tone down or expunged.
4. The Hon'ble C.A.T has not considered the statement of the petitioner that the respondents plea to the effect that the Govt. of India O.M. dated 18.3.88 was not available with them at the time of holding D.P.C. on 10.11.88 is not an excuse for the respondents to ignore the petitioner in considering the cases for promotion to the post of Asstt. Cost Accounts Officer. Moreover, in a similar case ciled by Shri Rajendra Sharma (Geophysist Jr.) in Bangalore Bench of the Tribunal (a copy of which was also given to the Hon'ble Tribunal and this case also finds a reference in the judgement of the Petitioner) the respondents did not deny that the Govt. of India. O.M. dated 18.3.88 was not available with them but said that since the proposal of promotion was sent to the Ministry on 16.3.88, the O.M. dated 18.3.88 is not applicable in that case.



Besides, a liaison office is also situated in New Delhi of the Geological Survey of India for the purpose of liaison with Govt. of India and for receiving the various Government Orders/O.M's/directions issued by the Govt. of India.

Therefore, it goes without saying that ignorance of the respondents about the Govt. of India Orders contained in O.M. dated 18.3.88 is only a lame excuse and the application of all statutory orders vis-a-vis orders of the Govt. of India dt. 18.3.88 is statutory requirement and the petitioner cannot be made a sufferer because of the alleged ignorance of the respondents.

5. The Hon'ble Tribunal has ignored the undermentioned Rulings and judgements passed by the Supreme Court and the Central Administrative Tribunals in various similar cases and also contradicted their own judgement (Annexed as Annexure No. 2) passed in O.A. No. 232/90 and 238/90 --Nirankar Sharma, Avtar Singh versus Director General, Geological Survey of India, Calcutta and others and gave two different verdicts in the identical cases.

RULINGS:-

i. P.S.Mahal Versus Union of India
reported in A.I.R. 1984 S.C. 1291.

In this case it has been decided that if any Govt. servant is denied promotion for no fault of his, he should be given retrospective promotion and that would entitle him to the arrears of his Pay and Allowances.

ii. C.A.T. Lucknow. O.A. No. 232 of 1990 and 238 of 1990 --- Nirankar Sharma, Avtar Singh versus Director General, Geological Survey of India, Calcutta and others.

Held: Hon'ble Tribunal granted arrears of salary and allowances and other benefits from 1977.

Subair

iii. C.A.T. Calcutta T.A. No. 1073:

Seniority and Promotion:- Employee deprived of promotion without any fault.

Held: Entitled to retrospective promotion with arrears of salary.

iv. C.A.T. Bombay T.A. No. 88 :

Seniority and Promotion -- Wrongful supersession:-

Held: Entitled to arrears of pay in the higher post not withstanding that he had not worked in that post.

v. C.A.T. Bangalore. O.A. No. 135 of 1991.

Rajendra Sharma versus Union of India & others.

Held: Promotion ordered with effect from the same date juniors were promoted with all the benefits.

vi. C.A.T. Lucknow. O.A. No. 51 of 1990.

B.N. Bhartiya versus Union of India & others.

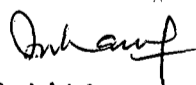
Held: Promotion ordered with effect from 1989 with all the benefits.

PRAYER

Wherefore it is prayed that in the facts and circumstances of the case, the Hon'ble Tribunal may be pleased to allow the Review Petition and order the financial benefits with retrospective effect in favour of the petitioner.

Lucknow.

Dated. 19.11.1992



Petitioner

VERIFICATION

I the above named petitioner do hereby verify that the contents of Paras 1 to 5 of the Review Petition are true to my personal knowledge and legal advice and nothing material has been concealed. So help me God.

Lucknow.

Dated. 19.11.1992


Petitioner

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

O.A.No. 87/90

Mohd. Hanif

Applicant

versus

Union of India and others

Respondents.

Shri A.K.Chaturvedi

Counsel for Applicant.

Shri V.K. Chaudhari

Counsel for Respondents.

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

Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice - U.C. SRIVASTAVA, V.C.)

By means of this application the applicant has challenged the order of promotion dated 25.11.88 promoting the persons who were junior to the applicant to the higher post and the order dated 14.8.89 through which the rejection order mentioned therein dated 9.9.88 has been communicated to him.

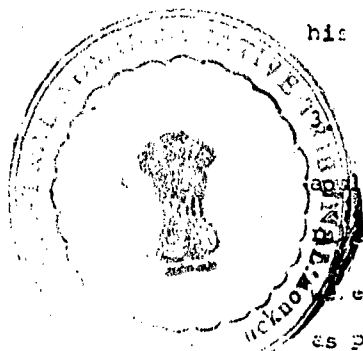
The applicant started his service career in the reference accounts of the Union of India. He was selected by the Union Public Service Commission for the post of Cost Accountant in the U.S.I. and in pursuance of the selection he joined there on 27.4.84. The next promotional post of Assistant Cost Accounts Officer was to be filled by way of promotion on the basis of seniority, subject to rejection of unfit from amongst the cost accountants. According to the applicant, although he was fully eligible but the promotions were



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made through order dated 25.11.99 and the persons junior to the applicant were promoted. Out of the five persons, four were appointed as such from the post of Assistant Cost Accountant and their promotions were regularised and later on regular appointment of the applicant was made through U.P.S.C. on the post of Cost Accountant and in the list these 4 persons have been placed below the applicant. The applicant made representation to the Director General which was rejected and in the it was pointed out that the applicant was not considered for the post by the D.P.C. as he did not have 5 years service on the post of Cost Accountant as on 10.11.88, i.e. on the date when the D.P.C. met. The applicant has, thus challenged his supersession and has approached this Tribunal.



The respondents have opposed the claim of the applicant and have pointed out that as per recruitment rules the post of Assistant Cost Accounts Officer is filled 100% by promotion on selection basis and as per existing rules the posts are filled (i) 50% by promotion failing which by transfer on deputation, (ii) 50% by transfer on deputation, failing which by direct recruitment on selection basis and the applicant was not considered by the D.P.C. since he did not complete five years of regular service in the feeder cadre as required under the new recruitment rules. The applicant has placed reliance on the circular dated 18.2.88 regarding which it has been stated that the same was not

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available in the office of the respondents at the time of holding D.P.C. It has been stated that he was entitled to be promoted with effect from 27.4.89 after completion of five years of service and the D.P.C. met on 30.8.89 and the name of the applicant was considered against the reserved vacancy for the post of Assistant Cost Accounts Officer and a dereservation proposal had already been sent to the Ministry for approval. The applicant has claimed promotion on the basis of the said O.M. dated 18.3.88. It has been stated that the applicant had worked as Cost Accountant in the Ordnance Parachute Factory, Kanpur with effect from 1.3.74 to 26.4.84 and he was relieved from there on 26.4.84 for joining in G.S.I. and the entire period was to be counted towards the period that the applicant had completed more than five years of service.



Vide O.M. dated 18.3.88 all the Ministries/Departments were advised to insert a note in the Recruitment Rules for various posts to the effect that when juniors who have completed the eligibility period are considered for promotion, their seniors would also be considered for promotion irrespective of whether they have completed the requisite service, provided they have completed the probation period. It was also emphasised that the Ministry/Department to ensure that the seniors are not overlooked for promotion.

5. A similar matter came up for consideration before the Bangalore Bench of this Tribunal in O.A.

Amramp

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
LUCKNOW CIRCUIT BENCH

Registration O.A. No.232 of 1990

Niranakar Sharma Applicant

Versus

The Director General, GSI
Calcutta & Others..... Respondents

Connected with

Registration G.A. No.238 of 1990

Avtar Singh Applicant

Versus

The Director General, GSI
Calcutta & Others Respondents

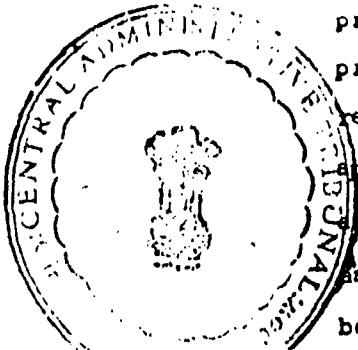
Hon.Mr.Justice U.C.Srivastava, V.C.

Hon. Mr. A.B.Gorthi, Member (A)

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

(In O.A. 232 of 1990) 2

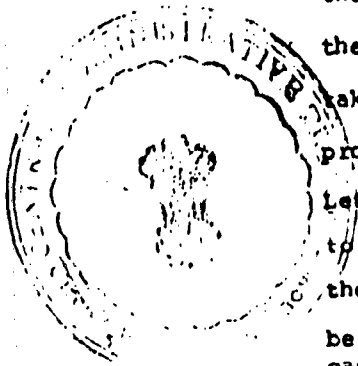
The applicant who was working on the post of JTA(S) in the Geological Survey of India was promoted at a later date while his juniors were promoted earlier has prayed this Tribunal claiming relief against the same. During the pendency of this application, the respondents considered the position as is evident from the documents before us as well as Supplementary Counter Affidavit in which it has been stated that the Review D.P.C. was held on 12.2.91 and the same has recommended notional promotion of the applicant now redesignated as JTA(S) with effect from 1.8.77 i.e. the date his juniors took over the charge on the post of Surveyor (Sr) but the applicant will get the benefit only from the date of their actual taking over charge in the higher grade of Surveyor. Thus the applicant has been given



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retrospective promotion and his grievance has been removed. But he has been deprived of financial benefits to which he is entitled to. The applicant is entitled to the financial benefits with effect from the date he has been promoted and in this connection he has made a reference to P.S. Mahal Vs. Union of India reported in AIR 1984 SC 1291 in which it has been decided that if any Govt. servant is denied promotion for no fault of his, he should be given retrospective promotion and that would entitle him to the arrears of his Pay & Allowances. He has also made reference to certain decisions of this Tribunal taking the same view. We also agree with the same. Accordingly respondents are directed to pay the arrears of salary and allowances and other benefits taking into consideration of those who have been promoted to the post of JTA(Sr) with effect from 1977. Let the payment and other benefits be made available to the applicant within a period of three months from the date of communication of this order. There will be no order as to costs. This judgement also governs the case O.A. No.238/90 Avtar Singh Vs.DG,GSI Calcutta & Others.



sd. _____ sd.
Member (N) Vice Chairman

Dated the 5 July, 1991.

RKM
C.T.C.
Attested
True copy
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