

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

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R.P.No. 38/95

in

OA.NO. 150/92

Shri S.A.Kulkarni

... Applicant

V/S.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Shri M.R.Kolhatkar

Appearance

Shri D.V.Gangal
Advocate
for the Applicant

Shri S.S.Karkera
for Shri P.M.Pradhan
Advocate
for the Respondents

Tribunal's Order

Dated: 9.8.1995

(PER: M.S.Deshpande, Vice Chairman)

Heard the learned counsel for the applicant.
The reliance is placed on two decisions of this Tribunal which have been annexed to the review application. In Shri S.A.Kulkarni vs. Union of India, OA.NO. 150/92 decided on 9.2.1995, the decision rested entirely on an earlier decision of this Tribunal in OA.NO. 322/87 S.Sadanandan Pillai vs. Union of India & Ors. decided on 8.7.1992. There the question for consideration was whether the applicant's services could be regularised from 1.10.1990. The decision ^{turned} ~~borne~~ on the PTO No. 40/54/66 which stated that having satisfactorily completed the probationary period, the applicant was absorbed in the regular Ty.Establishment vide Comdt.CME N.I. PTO No. 46/5/68. It was on the basis of successful completion of the probationary period that the further reliefs came to be granted by the Tribunal. We enquired from the

learned counsel for the applicant whether a similar order has been passed in respect of the applicant, ^{and} he fairly stated that there was no such order. We do not find any ^{such} averment also in OA.No. 150/92, The case on which the applicant relies is therefore clearly distinguishable on facts.

2. Our attention was drawn also to the decision of Keshav Chandra Joshi & Ors. vs. Union of India & Ors., AIR 1991 SC 284 and particularly the observations in Para 25 of the judgement. But there the principle laid down in the light of Narendra Chadha's case and the direct recruits' case was that if there was a power of relaxation in the Government, continuance of service for 15 to 20 years could ^{give rise to} ~~rise to~~ an assumption that that power was exercised and the service rendered for 15 to 20 years before regularisation could be counted for the purpose of seniority. The question whether the Government has powers to regularise partly or wholly ^{was not raised} in K.C.Joshi's case. We have referred in Para 2 of our judgement that the Government has exercised the power by the letter dated 12.12.1990 only to ^a limited purpose and no ~~exception~~ exception can be taken to the exercise of power in that manner. A mere assumption that a power has been exercised for all purposes can not be ^{raised} ~~rest~~ in the face of the letter dated 12.12.1990. There is no merit in the review application. It is dismissed.

M.R. Kolhatkar

(M.R.KOLHATKAR)
MEMBER (A)

M.S. Deshpande

(M.S.DESHPANDE)
VICE CHAIRMAN

mrj.