

O.A. No. 758/92

Date of decision: 25.6.93

ROOP SINGH

: Applicant.

VERSUS

UNION OF INDIA & ORS

: Respondents. A $\frac{2}{1}$

Applicant in person.

Mr. U.D. Sharma

: Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

Hon'ble Mr. O.P. Sharma, Administrative Member

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE-CHAIRMAN:

The applicant joined service as Class IV (now re-designated as Group 'D') employee on 19.1.61. Thereafter, he was promoted on 15.7.1970 on the post of Assistant Compiler. The respondents issued an order dated 3.12.73 reverting the applicant from the post of Assistant Compiler from 1.1.1974. The applicant filed a suit in the court of learned Munsif challenging his reversion order, which was dismissed. The applicant thereafter filed an appeal in the court of learned District Judge, Jaipur which has been decided by the Additional District & Sessions Judge No. 6, Jaipur vide Judgement and decree dated 8.2.79.

2. The appeal was accepted and the reversion order dated 3.12.73 was set aside and directions were given that the applicant was entitled to continue as Assistant Compiler and also entitled to compensation on account of his reversion. The Union of India submitted this appeal before the Hon'ble High Court which was numbered as 271/79 and was decided on 8.12.85. The appeal of the Union of India was rejected.

3. On 15.5.86, in compliance with the decision of the Hon'ble High Court, the respondents issued the order that the applicant was deemed to have been promoted notionally on the post of Assistant Compiler and Statistical Assistant with effect from the dates mentioned in Annexure-4. On 19.5.86, the order was revised/modified and the dates were changed. The applicant is aggrieved by the change of the dates.

4. The applicant submitted that the judgement and decree of the learned Additional District and Sessions Judge dated 8.2.79 giving him seniority from 15.7.70 should be implemented. He has further prayed that he should be promoted on the post of Assistant Compiler/Computer and Statistical Assistant from the date Shri D.N. Pareek was given such promotions with all consequential benefits. The case of the applicant is that Mr. Pareek was appointed in September, 1970 whereas he was appointed in July, 1970.

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5. Mr. Sharma submits that he does not have the file and he has not gone through the case on the ground that he was not aware of the date. The case was listed on 28.10.92 and the date of hearing was fixed for 26.11.92. None was present on behalf of the respondents. Again on 7.5.93, the case was listed before the Tribunal but none was present on behalf of the respondents. The Tribunal cannot be expected to notify or publish the dates for the information of the respondents in newspapers or otherwise. If the respondents fail to appear on the dates fixed by the court and if they do not take care to see the cause-list, the Tribunal cannot be blamed for ignorance about the date fixed for hearing, on the part of the Government's counsel. We are handicapped that since 11 a.m. we have been having two cases of the same party, Roop Singh and Mr. U.D. Sharma is the counsel in both the cases. He cannot expect us that on account of non-prosecution of the advocates, the Bench should retire and sit in Chamber 1½ hours before the scheduled time. This submission for adjournment is, therefore, not a valid submission. On the contrary, it reflects inefficiency on the part of the respondents that they do not represent their cases properly and do not provide necessary assistance to the Department's counsel. Mr. Sharma has also withdrawn the power in one case as the representatives of the Government are not attending the court and he is not getting instructions. We cannot hold that the Government as such is negligent but there appears to be negligence on the part of the concerned officers of the Department. It is the duty of the Government to take appropriate action against those officers who are negligent in the discharge of their duties. Cases have been pending for the last several years before the Tribunal and one of the reasons is that advocates are not briefed or are not available or the files are missing in the offices of the advocates. This is a sorry state of affairs, which causes serious harm to the interests of the litigants and invites criticism from the public.

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6. Once the matter of seniority has been decided by the learned Additional District and Sessions Judge vide judgement dated 8.2.79, Annexure-2, the question of seniority cannot be re-opened by the respondents. The respondents have to treat the applicant in service from 15.7.70, the date which has been approved by the court while setting aside his reversion order. The order of the Additional District and Sessions Judge has been upheld by the Hon'ble High Court and the appeal filed by the Union of India has also been dismissed.


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It seems that the mistake which was sought to be rectified by the Department, against which action the applicant is aggrieved arose for the reason that the matter was pending before the Hon'ble High Court upto 1985 and the orders were passed in the intervening period. No satisfactory explanation has been given by the respondents in their reply about why the revised order rectifying the so-called mistake had to be issued.

7. In the light of the judgement of the Hon'ble High Court, the applicant should be considered as having been appointed as Assistant Compiler etc. from 15.7.70 and his seniority in that post should be considered from that date.

8. The respondents' subsequent order modifying the earlier orders is set aside and respondents are directed to consider the case of the applicant for promotion taking 15.7.70 as the date on which he was appointed as Assistant Compiler etc. He should be promoted from the same dates on which his juniors, if any, have been promoted and given all consequential benefots. The respondents should complete this process within a period of 3 months and pass necessary orders.

9. The O.A. has been disposed of accordingly, with no orders as to costs.


(O.P. SHARMA)
Administrative Member


(D.L. MEHTA)
Vice-Chairman