

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.928/89

Dt. of order: 3.5.94

Kuldeep Chand Ralli

: Applicant

vs.

Union of India & Ors.

: Respondents

Mr. Virendra Lodha

: Counsel for applicant

Mr. U.D.Sharma

: Counsel for respondents

CORAM:

Hon'ble Mr.Gopal Krishna, Member(Judl.)

Hon'ble Mr.O.P.Sharma, Member(Adm.).

PER HON'BLE MR.GOPAL KRISHNA, MEMBER(JUDL.).

Applicant Kuldeep Chand Ralli in this application under Sec.19 of the Administrative Tribunals Act, 1985, has claimed actual consequential benefits from 12.7.76 to 29.11.83 pursuant to the decision of the learned Additional District Judge, Jaipur City, Jaipur dated 11.2.1980 which was up-held by the Hon'ble High Court.

2. We have heard the learned counsel for the parties and have gone through the records.

3. The applicant was appointed as Circle Service Telegraphist in the Department of Tele-communication, Jaipur. He was confirmed on the said post on 1.4.1961. However, in the year 1972, a gradation list was issued and he was assigned lower seniority vis-a-vis his juniors. Aggrieved by this lowering of seniority in the gradation list he filed a civil suit in the Court of Additional Munsif Magistrate No.2, Jaipur City, Jaipur, but it was dismissed on 6.9.1976 and an appeal against the judgment and decree of the Additional Munsif Magistrate No.2, Jaipur, was preferred in the Court of the learned District Judge, Jaipur and it was transferred to the Court of Additional District Judge No.2, Jaipur City, who allowed the appeal and decreed the suit in terms stated below:

"The suit is decreed in favour of the applicant and it is hereby declared that the applicant's seniority as assigned to him in the gradation list corrected up to 1.4.1965 is corrected. The respondents are hereby directed to assign him the same seniority in the gradation list upto date and he be considered for promotion according to the said seniority."

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4. The applicant's contention is that he has been given the actual benefit from 30.11.83 i.e. the date of his actual promotion in the grade of LSG T/M(O) and the denial of actual benefit from 12.7.76 to 29.11.83 to him was arbitrary, unreasonable and unjust.

5. The respondents' contention is that the applicant is not entitled to the actual consequential benefits as claimed as none of the orders passed by the Additional District Judge No.2, Jaipur City, Jaipur and the Hon'ble Rajasthan High Court had allowed the same to the applicant.

6. The preliminary objection as to limitation raised by the respondents is not sustainable in view of the fact that the present application is directed against the impugned decision contained in the communication dated 9.9.88 (Annex.A-1). The present application having been filed on 21.11.89 was unquestionably filed beyond a period of one year from the date of the impugned order but the delay of about 2 months in the presentation of this application is condoned in the interest of justice on the oral prayer of the learned counsel for the applicant. The learned counsel for the applicant has contended that once the applicant's seniority was revised and he was promoted to the next higher grade from the date his juniors had been promoted he should have been granted actual consequential benefits w.e.f. the date any person junior to him was promoted to the next higher grade regardless of the fact whether the consequential benefits had been specifically asked for or not. Reliance has been placed by the learned counsel for the applicant in the case of P.N.Tandon Vs. Union of India & Ors. reported in 1988 (1) ATL(GAT)295. The facts of this case are quite distinctly different from the facts of the case in hand. The learned counsel for the applicant has contended that in the suit filed by the applicant in the Court of the learned Additional Munsif No.2, Jaipur City, Jaipur, he had claimed the actual consequential benefits also in the relief clause. There was no direction by the learned Additional Distt.Judge No.2, Jaipur City, who allowed the appeal against the dismissal of the suit and decreed

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the suit in favour of the applicant that the actual consequential benefits shall also be granted to the applicant. In the absence of such direction it is deemed that the grant of actual consequential benefits to the applicant has been declined. The applicant has already been paid arrears of pay w.e.f. 30.11.83 i.e. the date of his actual promotion to the grade of LSG T/M(O).

7. In view of the position stated above, there is no force in this application and it is hereby dismissed with no order as to costs.

(O.P.Sharma)
Member(A).

Gopal Krishna
(Gopal Krishna)
Member(J).