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CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A. NO. 908 OF 1994

M 11-6-97

Present : Hon'ble Mr. Justice A.K.Chatterjee, Vice-Chairman
Hon'ble Mr. P.T. Thiruvengadam, Member (A)

A. ANJANEYULU

VS

1. Govt. of India, Deptt. of Personnel and Training, Ministry of Personnel, Public Grievances and Pension, rep. by its Secretary to Govt., New Delhi
2. The Central Administrative Tribunal, Principal bench, rep. by its Registrar, Faridkot House, Copernicus Marg, New Delhi-1
3. The Central Administrative Tribunal, Hyderabad Bench, rep. by its Registrar, HACA Bhavan, Hyderabad
4. Smt. Y.L.K.Rekha, LDC, C/o the CAT, Hyderabad Bench, HACA Bhavan, Hyderabad
5. T.Ganesh Babu, LDC, C/o the CAT, Hyderabad Bench, HACA Bhavan, Hyderabad
6. Smt. G.Hiranmayi, LDC, C/o the CAT, Hyderabad Bench, HACA Bhavan, Hyderabad

..... Respondents

For the petitioner : Mr. Y.Surjanarayana, Counsel

For official respods: Mr. N.R.Devaraj, Counsel
For Pvt. respondents: Mr.P.B.Vijayakumar, Counsel

Heard on : 5.3.97 : Order on : 11-6-97

O R D E R

A.K.Chatterjee, J(VC):

The petitioner was formerly a Book Bearer in the Andhra Pradesh High Court and subsequently appointed as Copier Machine Operator in the said High Court on 1.3.83. While he was working as such on regular basis, he joined the Central Administrative Tribunal (Tribunal for short) on 25.6.86 on deputation basis. The recruitment rules to various posts in the Tribunal were framed later and came into effect on 20.9.89 which provided for absorption of willing deputationists

subject to fulfillment of eligibility conditions as laid down in the rules provided they were spared by their parent department. Accordingly, the petitioner exercised an option and on being found suitable by the Departmental Promotion Committee, he was absorbed as ⁴ Lower Division Clerk (LDC) with effect from 1.11.89. A seniority list of LDCs was prepared and the seniority of the petitioner was determined with reference to the date of his absorption i.e. 1.11.89. The petitioner's grievance is that his seniority has not been correctly determined because the service rendered by him in the Andhra Pradesh High Court was not counted. It was urged that he was working in the parent department in the same or equivalent grade on regular basis and therefore, his seniority should have been determined at least with reference to the date of joining the Tribunal on deputation. The petitioner has impleaded as party respondents 4 to 6, ^{three} the other LDCs all of whom have been shown senior to the petitioner in the seniority list despite the fact that they joined the Tribunal after the petitioner. The petitioner made representation, but to no effect and hence this application has been filed for appropriate reliefs.

2. The Tribunal impleaded as respondent No. 2 has filed a counter on behalf of other official respondents wherein it has been contended inter alia that the post of Copier Machine Operator in the Andhra Pradesh High Court cannot be treated as equivalent to the post of LDC and that the private respondent Nos. 4 to 6, ~~who~~ were working in their parent department in equivalent post/grade, which was the reason why they were placed above the petitioner in the seniority list. The official respondents have also taken the plea of limitation.

3. The private respondents have also filed a counter on the same line as stated by the official respondents.

4. The petitioner has filed a rejoinder disputing the case of the respondents that the post held by him in his parent department was not equivalent to the post to which he came on deputation and had pointed out that the delay in filing the application was condoned by the Tribunal in M.A. 997 of 1994.

5. We have heard the learned counsels for all the parties and have perused the records before us. There was no with the provisions of DOPT OM dt. 29.5.1986 which was incorporated in the consolidated instructions contained in the OM dt. 3.7.86. It may be profitable to reproduce below the paragraph 3.4.1 which is material for our purpose :

" In the case of a person who is initially taken on deputation and absorbed later (i.e. where the relevant recruitment rules provide for 'Transfer on deputation / transfer'), his seniority in the grade in which he is absorbed will normally be counted from the date of absorption. If he has, however, been holding already (on the date of absorption) the same or equivalent grade on regular basis in his parent department, such regular service in the grade shall also be taken into account in fixing his seniority subject to the condition that he will be given seniority from -

--- the date he has been holding the post on deputation, or

--- the date from which he has been appointed on a regular basis to the same or equivalent grade in his parent department, whichever is later."

6. It is clear, therefore, that only if a deputationist, who was working in his parent department on the same or equivalent grade on regular basis on the date of absorption, his seniority may be fixed with reference to the date of deputation or the date from which he has been appointed on a regular basis to the same or equivalent grade in his parent department, whichever is later. Thus, under no circumstances, can the seniority of a deputationist on absorption be fixed with reference to any date anterior to the date of deputation.

Further any seniority with reference to a date prior to the date of absorption can be given only if the deputationist was holding the same or equivalent grade in his parent department on a regular basis. There was no dispute that the petitioner on the date of absorption or even on the date of deputation, was working as Copier Machine Operator in the Andhra Pradesh High Court on a regular basis. The question, therefore, which calls for adjudication is whether such post can be regarded as equivalent to the post of LDC in the Tribunal.

7. In this regard the respondents have joined issue and it was pointed out that not only the post of Copier Machine operator carries a scale or pay less than that attached to the post of LDC but also higher duties and responsibilities are enjoined to the latter post. It was also contended on behalf of the respondents that the classification of the posts are different since LDC is a ministerial post while Copier Machine Operator is a non-ministerial post. It was further contended by the respondents that even in the Andhra Pradesh High Court the post of Copier Machine Operator is a feeder post for LDC.

8. The petitioner has no doubt disputed the basis for such findings as it is stated in the counter filed by the official respondents that duties and responsibilities of the posts of Copier Machine Operator and LDC were ascertained from the Andhra Pradesh High Court on telephone and it was intimated that the post of LDC was promotional post for Copier Machine Operator. Even though no duty chart was forthcoming relating the posts in question, we see no reason to dismiss the case of the respondents in this regard stated on affidavit particularly because even the petitioner himself did not specifically say that the duties and responsibilities of the posts of LDC and Copier Machine Operator were identical or that the former was not a promotional post for the latter.

Regarding the classification of posts, there was indeed no dispute that LDC was ministerial post while Copier Machine Operator a non-ministerial one. In this connection, it was also urged on behalf of the respondents that when the petitioner joined the Tribunal, his pay was fixed as per provision of FR 22C suggesting the fact that the post of Copier Machine Operator was not equivalent to the post of LDC in the Tribunal. There was also no satisfactory answer to this contention and on this ground too the petitioner joined the Tribunal on a higher post.

9. Regarding the grievance of the petitioner that private respondents 4 to 6 have been placed above him in the seniority list inspite of the fact that all of them had joined the Tribunal on a latter date, it may be noted that all of them were already working as LDC on regular basis in their parent department when they joined the Tribunal on deputation and thus there cannot be any manner of doubt that they were holding equivalent grade in their parent department and their seniority have to be determined with reference to the date of their joining the Tribunal. Thus, their seniority have been fixed in accordance with the consolidated instructions contained in the DOPT OM dt. 3.7.86 and the petitioner cannot challenge their placement above him merely on the ground that he had joined the Tribunal before them.

10. Regarding the plea of limitation taken by the respondents, it must, however, be rejected as it has been pointed out by the petitioner in his rejoinder that the delay in making the application has been condoned by the Tribunal in MA 997/94.

Copy to:

1. The Secretary, to Govt., Deptt. of Personnel and Training, Min. of Personnel Public Grievances, and Pension, New Delhi.
2. The Registrar, Central Administrative Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi-1.
3. The Registrar, Central Administrative Tribunal, Hyderabad Bench, HACA Bhawan, Hyderabad.
4. One copy to Mr.Y.Suryanarayana, Advocate, CAT, Hyderabad.
5. One copy to Mr.W.R.Devraj, Sr. CGSC, CAT, Hyderabad.
6. One copy to Mr.P.B.Vijaya Kumar, Advocate, CAT, Hyderabad.
7. One copy to D.R.(A), CAT, Hyderabad.
8. One duplicate copy.

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case 16/97

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

A K Chatterjee : V.C.
THE HON'BLE SHRI R. RANGARAJAN: M(1)

AND
P T Thiruvenkadam. M (A)
THE HON'BLE SHRI B. S. JAI PARAMESHWAR: M
(2)

DATED: 11/6/97

ORDER/JUDGEMENT

M.A./R.A/C.A. NO.

in
O.A. NO. 908/94

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

YLKR

II Court.

