

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application 117/2000

Jabalpur : this the 6th August, 2003

Hon'ble Mr. J.K. Kaushik, Judicial Member
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

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C.T. Thomas Kutty,
S/o (Late) Sh.T.P.Thomas,
Aged 46 years,
Enforcement Officer/Asstt.Accounts Officer,
Office of the Regional Provident Fund Commissioner,
Scheme No .5, Vijaynagar,
Jabalpur

(By Advocate : Shri P. Shanakran) Applicant.

Vs.

1. Central Provident Fund Commissioner,
Bhavishya Nidhi Bhavan,
14, Bhikaji Cama Place,
New Delhi.
2. The Regional Provident Fund Commissioner,
7, Race Course Road,
Indore (MP).
3. Shri R.D. Deo,
Enforcement Officer/Asstt.Accounts Officer,
Office of the Regional Provident-
Fund Commissioner,
7, Race Course Road,
Indore.
4. Shri T.V.K. Nair,
Enforcement Officer/
Asstt. Accounts Officer,
Office of the Regional-
Provident Fund Commissioner,
Nav Bharat Complex,
Raipur (MP).

(By Advocate : Shri B. Dasilva) Respondents.

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ORDER (ORAL)

BY J.K. KAUSHIK :

Shri C.T.Thomas Kutty, has filed this O.A. for assigning
him his due seniority in the seniority list.dated 21.4.1998

[Signature]

(Annex.A/3) by putting his name at appropriate place and has also prayed that he may be treated as promoted to the post of Enforcement Officer/Assistant Accounts Officer w.e.f.

3.3.1990.

2. The facts of this case are at a very narrow compass. In the year 1988-89, applicant was working on the post of Senior Stenographer in the office of respondent No.2. However, his seniority was not properly fixed on the said post and he had to take recourse to file OA 249/88 before this Tribunal wherein he claimed grant of seniority on the post of Stenographer w.e.f. 22.5.1981. The said OA came to be allowed in his favour vide order dated 30.11.1989. The operative portion of the order is as under :-

"8. We accordingly direct the respondents to place the applicant in the seniority gradation list as if he is holding regular appointment and continuously officiating as Senior Stenographer with effect from 22.5.1981 and not 15.7.1988. The Part II Office Order No. 439 dated 27.7.1988 (Annexure R-VII) is quashed."

3. The further case of the applicant is that his next juniors Shri R.D. Deo and Shri T.V.K. Nair (Respondents No.3 and 4) were granted the grade of Enforcement Officer w.e.f. 3.3.90 on regular basis whereas, this benefit has been granted to him only w.e.f. 6.3.97. Even though the feeder cadre of Head Clerks/ Stenographers, the applicants and the respondents No. 3 and 4 were appointed w.e.f. 22.5.81 and 24.6.81 respectively on regular basis. It seems that this has happened since while refixing the seniority of applicant in the grade of Senior Stenographer in pursuance of the order passed in the ibid OA consequential benefits of promotion as Enforcement Officer/ Assistant Accounts Officer with retrospective date, have not been granted to him. This position came to the knowledge of the applicant only when the Draft Seniority List was circulated

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on 11.11.1998 and he protested against the same immediately thereafter, but, no response is the result. Hence, applicant is entitled for grant of promotion to the post of Enforcement Officer w.e.f. 3.3.1990 at par with respondents No. 3 and 4 and also the seniority list needs correction.

4. The official respondents have contested the case and have filed a detailed reply to the O.A. and it has been submitted that the objections of the applicant had been received against the impugned seniority list and the same has not yet been finalised by the competent authority. In this way, the application is premature.

5. We have heard the learned counsel for the parties and have carefully perused the pleadings and the records of the case.

6. The learned counsel for applicant has reiterated the facts and grounds raised in the O.A. and has submitted that the only point left is fixation of seniority on the post of Enforcement Officer and no other monetary benefits are involved in view of certain subsequent developments. He has also submitted that respondents have not disputed his claim regarding the promotion to the post of Enforcement Officer on the basis of Next Below Rule and if the date of his promotion to the said post is declared to be as 3.3.1990, applicant would automatically get his seniority on the post of Enforcement Officer.

7. On the contrary, learned counsel for respondents has submitted that the matter of finalisation of the seniority list is still in progress and has not yet been finalised. The due care shall be taken to incorporate the name of applicant at the appropriate place. As far as the claim of applicant

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for grant of promotion on the post of Enforcement Officer from a retrospective date is concerned, it is for the competent authority to consider the same.

8. We have considered the rival contentions raised on behalf of the parties. The admitted position of the case is that applicant is senior to respondents No. 3 and 4 on the feeder post of Enforcement Officer. However, the position of the seniority has been only cleared after decision of this Bench of the Tribunal in the year 1998/^{and} that is probably the reason, there is discrepancy in grant of promotion on the post of Enforcement Officer from due date i.e. at par with his next juniors. It is not in dispute that the respondents No. 3 and 4 have been granted the said promotion w.e.f. 3.3.90. We also find from the records that there is nothing adverse against the applicant so as to obstruct his promotion from the said date i.e. 3.3.90 from which date private respondents have been granted promotion. In this view of the matter, we are of the opinion that there is substance in the contention of the learned counsel for applicant and O.A. merits acceptance. Accordingly, we pass the order as under : -

"The O.A. is allowed. The applicant shall be treated to have been promoted to the post of Enforcement Officer/ Assistant Accounts Officer w.e.f. 3.3.1990 and he shall be entitled for his due seniority in the seniority list dated 21.4.98 (Annex.A/3) or any other subsequent final seniority list, if issued for the said post, at the appropriate place. In the facts and circumstances of the case, the parties are directed to bear their own costs."

Anand Kumar Bhatt
(Anand Kumar Bhatt)
Administrative Member

J.K. Kaushik
(J.K. Kaushik)
Judicial Member

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