

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No.435/2006.

Jaipur, this the 27th day of November, 2006.

CORAM : Hon'ble Mr. M. L. Chauhan, Judicial Member.
Hon'ble Mr. J. P. Shukla, Administrative Member.

Nathu Lal Bairwa
S/o Late Shri Rewar Ram
Aged about 62 years,
R/o 102-B, Barkat Nagar,
Tonk Phatak,
Jaipur.

... Applicant.

By Advocate : Mr. Rajendra Vaish.

Vs.

1. Union of India
Secretary (G.O.I.), Ministry of Labour,
Shram Shakti Bhawan,
Rafi Marg, New Delhi.

... Respondent.

: O R D E R (ORAL) :

The applicant has filed this OA thereby praying for
the following reliefs :-

"By an appropriate order or direction the order dated 09th Oct. 2006 Annexure A/1 may be declared as null and void and the respondents may be directed to comply to the orders of the Hon'ble Principal Bench, Delhi dated 15.10.1999 Annexure A/4 in letter and spirit and from the date for which judicial directions were given to the respondents. The respondents may be further directed to provide promotion to the applicant from Grade V to Grade IV of the CLS services for the year 2003-2004 and to further revise the last pay of the applicant and as a consequence revise the pension of the applicant.

Any other order deem fit and proper may be passed in favour of the applicant and cost may also be awarded in favour of the applicants."

2. Briefly stated, the facts of the case are that the applicant belongs to Central Labour Service which was set up in 1987. Since no cadre review was undertaken by the respondents as per DP&T's OM dated 6.5.1972, the association along with one Shri T.C. Girotra filed OA before the Principal Bench. The said OA was disposed of vide order dated 15.10.1999 thereby directing the respondents to complete the task of cadre review as expeditiously as possible and probably within a period of 2 ½ years from the date of receipt of a copy of the order. Copy of the said judgment has been placed on record as Annexure A/4. As can be seen from the material placed on record, time limit granted to the respondents to implement the direction given by this Tribunal was ~~extended~~ till 30.06.2004. The applicant has also placed on record the Minutes of Meeting of the Cadre Review Committee held on 21.1.2004 whereby they recommended creation, upgradation/reduction of the posts. The said proposal was accepted by the Government vide letter dated 29.04.2004 (Annexure A/9) whereby the existing section strength of various categories were increased/decreased. Here we are concerned with category Grade-IV in the pay scale of Rs.10000-15200/- where existing posts have been shown as 84 and number of posts recommended by the Cadre Review Committee which has been accepted by the government has been shown as 112, as the applicant who has retired on superannuation on 31.3.2004 as Assistant Labour Welfare Commissioner Grade-V is seeking promotion

to Grade-IV. Admittedly, the order whereby the government has accepted the recommendation of the Cadre Review Committee of the Central Labour Services is dated 29.04.2004 (Annexure A/9), after the retirement of the applicant.

3. In sum and substance, the grievance of the applicant in this case is that since the Review Committee has decided the issue on 21.1.2004 and such recommendation was binding on the government, as such, his right of consideration for promotion has to determine w.e.f. 1.1.2004 and issuance of the formal order dated 29.04.2004 (Annexure A/9) by the respondents is of no consequence.

4. We have heard the Learned Counsel for the applicant at admission stage. Learned Counsel for the applicant argued that since this Tribunal has granted 2 ½ years time to the respondents to complete the task of review cadre vide order dated 15.10.1999, as such, in terms of the aforesaid judgment, the right of consideration will relate back to the retrospective date after the expiry of 2 ½ years as granted by the Tribunal and the sanction strength so revised shall have ^{to be} given ~~to~~ retrospective effect.

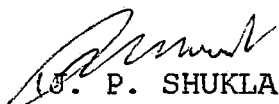
5. We have given due consideration to the submissions made by the Learned Counsel for the applicant and we do

not find any force in such submissions for more than one reasons. Firstly, the order dated 29.04.2004 is prospective as the government has accepted the recommendation of the Cadre Review Committee thereby increasing/decreasing the post as per detail contained in Para²_λ of the said notification. This order does not mention that the revised sanction strength will have retrospective effect. Thus, the contention raised by the applicant is wholly misconceived. Secondly, the time limit of 2 ½ years which was originally granted by the Tribunal vide aforesaid judgment was extended up to 30.06.2004 as can be seen from impugned order Annexure A/1 dated 9.10.2006. As such, the contention of the applicant that creation will relate back to original period granted by the Principal bench in its judgment dated 15.10.1999 cannot be accepted.

6. Further we are of the view that the contention of the Learned Counsel for the applicant that the revised sanction strength which has been accepted by the Government vide order dated 29.04.2004 (Annexure A/9) shall relate back to the date when Cadre Review Committee held its meeting on 21.1.2004 cannot be accepted as the recommendation made by the Review committee is in the nature of recommendation. ~~It~~ It is for the government to accept or reject the recommendation so made by the Committee either in part or in toto. Thus, we are of the view that the applicant is not entitled to any relief and

the action of the respondents whereby it has been stated that prior to his superannuation there was no vacancy, as such, he could not be promoted and further that after retirement he cannot be granted promotion retrospectively against vacancy which has occurred after his retirement cannot be faulted.

7. With these observations, the OA is dismissed at admission stage with no order as to costs.


(J. P. SHUKLA)
ADMINISTRATIVE MEMBER


(M. L. CHAUHAN)
JUDICIAL MEMBER

P.C./