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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI-5.

O.A.No. 23 of 1994.

DATE OF DECISION...5-6-1998.....

Shri D.V.Devdhar

(PETITIONER(S))

Sri B.K.Sharma

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Sri S.Ali, Sr.C.G.S.C

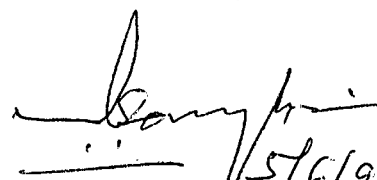
ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE JUSTICE SHRI D.N.BARUAH, VICE CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member.


5/6/98

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.23/94

Date of Order: This the 5th th Day of June, 1998.

HON'BLE MR.JUSTICE D.N.BARUAH, VICE-CHAIRMAN
HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER

1. S.V.Devdhar
Working as Area Manager/Asstt.General
Manager, Canteen Stores
Department, Area Depot,
DIMA PUR -797 112 (Nagaland)
and residing at Area Depot
C.S.D. Estate, Dimapur-
797 112(NAGALAND).

... Applicant.

By Advocate Mr.B.K.Sharma and Mr.D.S.Bhattacharjee.

-Vs-

1.
 1. Union of India through the
Secretary in the Ministry of
Defence, Raksha Mantralaya,
New Delhi.
 2. General Manager,
Canteen Stores Department,
Ministry of Defence, (ADELPHI"
119 M.K. Road, BOMBAY-400 020
 3. Dy.General Manager(P&A)
Canteen Stores Department,
Ministry of Defence,
"ADELPHI" 119 M.K. Road,
Bombay-400 020.
 4. Secretary
Board of Central, Canteen Services,
Room No.16, L 1, Block,
Church Road, NEW DELHI-110 001.

... Respondents.

By Advocate Mr.S.Ali, Sr.C.G.S.C.

O R D E R.

(G.L.SANGLYINE, ADMINISTRATIVE MEMBER)

The applicant joined service as Manager, Grade I in the Canteen Stores Department on 15-2-1982. This is a Group 'A' service and he was appointed after due selection by the Union Public Service Commission. The avenue of promotion of Manager, Grade I is Assistant Manager/Selection Grade Manager, Deputy General Manager/Regional Manager and onwards

contd/-

On 26-6-1987 the applicant was promoted on adhoc basis to the grade of Assistant General Manager/Selection Grade Manager with immediate effect. The applicant joined the post. Thereafter the applicant was promoted from time to time in the Grade of Assistant General Manager/Selection Grade Manager for a period of 6 months at a stretch till he was promoted on regular basis by the Departmental Promotion Committee (DPC for short) held on 23-9-1993. The applicant was therefore working on adhoc basis in the grade of Assistant General Manager/Selection Grade Manager from 26-6-1987 to 23-9-1993. The main objective of the applicant in submitting this Original Application (O.A. for short) is to get a promotion to the post of Deputy General Manager. The qualifying service for consideration for promotion to the post however is 5 years of service in the grade of Assistant General Manager/Selection Grade Manager (AGM/SGM for short) on regular basis. As on the date of submission of this O.A. the applicant did not have the requisite number of years of qualifying service for consideration for his promotion to the grade of Deputy General Manager/Regional Manager (DGM/RM for short). He therefore prays in this application for a direction on the respondents to consider him for promotion to the grade of Deputy General Manager/Regional Manager in the forthcoming DPC by taking into account the period of service as AGM/SGM from 26-6-1987 to 23-9-1993. His contention is that the period of service from 26-6-1987 to 23-9-1993 counts for the purpose of determination of his seniority in the grade of AGM/SGM. In support of his contention the applicant submitted that there was a regular and clear vacancy in the grade of AGM/SGM against which he was promoted and when his adhoc promotion was followed by a regular promotion in 1993, the long and continuous service rendered by him on adhoc basis with effect from 26-6-1987 as AGM/SGM

should be counted for the purpose of seniority in the grade of AGM/SGM. Further, that there was a clear vacancy of ASM/SGM as evident from the fact that all promotions made in the similar manner were continuing for entire^{period} and no reversion took place. In fact all were regularised. His promotion was made against the vacancy for exigencies of work as stated by the respondents. The applicant submitted that such promotion cannot be a stop-gap arrangement. Therefore the period of his adhoc service from 26-6-1987 to 23-9-1993 cannot be ignored in the determination of his seniority in the grade of AGM/SGM.

2. The respondents have contested the application and submitted written statement. According to the respondent there was no recruitment rules for the grade of DGM/RM till 1988. Due to non-availability of recruitment rules no promotion could be made in that grade. Therefore ad hoc arrangements were made to carry out the work. After finalisation of the recruitment rules for DGM/RM the DPC was held in December 1989. In the meantime a representation was received from Sri Dharampal for counting his Military service for seniority and this prayer was granted. Subsequently the seniority in the grade was revised. The revised seniority of Dharampal was challenged by Shri Ram Babu and Shri S.C. Kapoor before the various Benches of the Central Administrative Tribunal. Stay orders were obtained not to hold DPC with the revised seniority list. The O.As were finally disposed of on 23-8-1993 and the DPC was since held on 16-2-1994. They submitted that the applicant was not promoted to AGM/SGM against any clear and regular vacancy during 1987 and 1993. The factual position is that 10 seniormost AGMs were promoted to the next higher grade of DGM/RM on ad hoc basis and the vacancies of AGM were accordingly filled by ad hoc appointments from among the Managers Grade

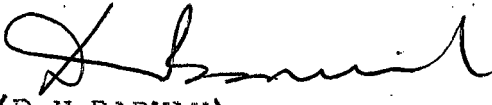
contd/-


They argued that until and unless regular appointments are made in the next higher grade of DGM/RM vacancies in the grade of AGM cannot be treated as regular and clear vacancy. They also submitted that the ad hoc promotions were made without holding DPC and further that the regular DPC held on 29-3-1993 in which the applicant was promoted on regular basis to the post of AGM, was not for regularisation of ad hoc promotion but for promotion on regular basis. In view of the above they have contested the correctness of the claim of the applicant that the period of his adhoc service in the grade of AGM/SGM from 26-6-1987 to 23-9-1993 counts for the purpose of determining his seniority in the grade of AGM/SGM.

3. We have perused the facts as placed by both sides in this O.A. as well as the various case laws cited by the respondents in the written statement as well as placed by the applicant at the time of hearing. We have heard learned counsel of both sides. The question in this O.A. is whether the period of service rendered by the applicant in the grade of AGM/SGM from 26-6-87 to 29-9-93 by virtue of the ad hoc promotion orders issued by the respondents from time to time referred to in this O.A. count for the purpose of determination of his seniority in the grade of AGM/SGM, It is clear to us that there was not regular vacancy available for promotion in the grade of AGM/SGM against which the applicant was promoted on ad hoc basis. It has not been shown that there was fresh sanction of posts of AGM/SGM. The post against which the applicant was promoted was a resultant vacancy due to ad hoc promotion of Senior AGM/SGM to the grade of DGM/RM as due to circumstances as explained by the respondents the DPC for promotion to the posts of DGM/RM on regular basis could meet only in December 1994. The resultant vacancy against which the applicant was promoted was only an adhoc/

Stop-gap arrangements had been made to fill up the vacancy by promoting the applicant to AGM/SGM on ad hoc basis in order to carry out the work in the grade in the facts and circumstances as we gathered in this O.A. His promotion to the post of AGM/SGM from 26-6-1987 to 23-9-1993 were affected without holding DPC. The promotions were therefore not in accordance with the rules. A regular DPC was held only on 23-9-1993 for regular promotion to the post of AGM. It is the contention of the respondent that this regular DPC was not for regularisation of ad hoc promotion. We have perused the order dated 21-10-93 Annexure-F, and we are of the view that the regular DPC held on 23-9-1993 was not for regularisation of the earlier ad hoc promotions of the applicant; for, if it is for regularisation of the earlier ad hoc promotions, there is no necessity to prescribe longevity of the panel for one year only. In the facts and circumstances we are of the view that the period of service rendered by the applicant as AGM from 26-6-1987 to 23-9-1993 cannot be held to be regular service and that period cannot be counted for the purpose of determination of seniority of the applicant in the grade of AGM/SGM. Consequently, his prayer to direct the respondents to consider the applicant for promotion to the post of DGM/RM by counting his seniority in the post of AGM/SGM with effect from 26-6-1987 does not survive.

4. In the result, the application is dismissed. No order as to costs.


(D.N. BARUAH)
VICE-CHAIRMAN


(G.L. SANGLYNE)
ADMINISTRATIVE MEMBER