

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

O.A. No.980/2013  
with  
O.A. No. 3570/2013

Order Reserved on: 19.07.2017

Order Pronounced on: 28.07.2017

**HON'BLE MR. V. AJAY KUMAR, MEMBER (J)**  
**HON'BLE MR. SHEKHAR AGARWAL, MEMBER (A)**

**OA No. 980/2013**

Brij Raj Singh  
S/o Late Jaswant Singh Tyagi  
R/o 13/266, Vasundhara,  
Ghaziabad, Uttar Pradesh. ....Applicant

(By Advocate: Shri S.K. Pandey)

Versus

1. The Indian Trade Promotion Organisation,  
Through its Chairman-cum-Managing Director,  
Pragati Bhawan, Pragati Maidan,  
New Delhi-110001.
2. Shri Devender Singh Yadav  
S/o Shri Nawal Singh Yadav  
R/o Village Kapashera, New Delhi. .... Respondents

(By Advocate: Ms. Neha Bhatnagar and  
Shri K.S. Parihar)

**OA No.3570/2013**

Ram Prasad  
S/o Late Shri Doji  
R/o L-306, Dakshinpuri,  
New Delhi. ....Applicant

(By Advocate: Shri S.K. Pandey)

## Versus

1. The Indian Trade Promotion Organisation,  
Through its Chairman-cum-Managing Director,  
Pragati Bhawan, Pragati Maidan,  
New Delhi-110001.
2. Shri Devender Singh Yadav  
S/o Shri Nawal Singh Yadav  
R/o Village Kapashera, New Delhi.  
C/o General Manager,  
Security, ITPO,  
Pragati Bhawan,  
Pragati Maidan,  
New Delhi-110001. .... Respondents

(By Advocate: Ms. Neha Bhatnagar and  
Shri K.S. Parihar)

**ORDER****By Hon'ble Mr. V. Ajay Kumar, Member (J):**

The applicant, in OA No.980/2013, a Senior Assistant, filed the instant OA, aggrieved by the Annexure A-1 Office Order No. ADMIN/18/2013 dated 08.01.2013 of the respondents in cancelling his promotion to the post of Senior Assistant and also in withdrawing the notional promotions given to him in the categories of UDC (now Assistant) and LDC (now Junior Assistant).

2. The applicant in OA No.3570/2013, who is working as Executive (GC) filed the OA questioning the Annexure A-1 Office Order No. ADMIN/19/2013 dated 08.01.2013 of the respondents in

cancelling his promotions to the posts of Senior Assistant and Executive (GC) and in changing his seniority position to his disadvantage.

3. Since the issues involved in both the aforesaid OAs are identical, and in both the OAs, the applicants claim is against the same person, i.e., Shri Devender Singh Yadav, who is arrayed as Respondent No.2 in both the OAs, with the consent of all the counsels, both the OAs were heard together and disposed of by way of this common order. However, for the sake of convenience, the facts in OA No. 980/2013 are considered.

4. The impugned Annexure A-1 dated 08.01.2013 issued in respect of the applicant in OA No.980/2013 reads as under:-

“Consequent upon the order dated 8<sup>th</sup> October, 2012 of the Hon’ble CAT, Principal Bench, New Delhi in the matter of OA No.4657/2011 (Devender Singh Yadav Vs. ITPO and Others) and with the recommendations of Review DPC and with the approval of Competent Authority, the date of promotion to the post of LDC (Now Junior Assistant) in respect of Shri B.R. Tyagi is fixed from 16.11.1985 as per Office Order No .Admn./1197/85 dated 16.11.1985. Accordingly, notional seniority from 05.09.1980 granted to Shri B.R. Tyagi for the post of LDC vide Order No.Admn.240/2004 dated 25<sup>th</sup> March, 2004 is hereby cancelled/withdrawn.

Further, Shri B.R. Tyagi is promoted to the post of Assistant (Earlier designated as UDC) with effect from 12.04.2001 on notional basis. He will be placed between Mrs. Renuka Pathania and Shri Jai Raj in the seniority list of Assistant (General Cadre) issued on 3<sup>rd</sup> March, 2009.

In view of above, the promotion in respect of Shri B.R. Tyagi to the post of UDC (Now Assistant) with effect from 26.10.1990 on notional basis

issued vide Order No. Admn/1377/95 dated 7<sup>th</sup> August, 1995 is hereby cancelled/withdrawn, with immediate effect.

Consequently, the promotion to the post of Senior Assistant in respect of Shri B.R. Tyagi, issued vide Order No. Admn./834/2004 dated 11<sup>th</sup> August, 2004, is also cancelled/withdrawn with immediate effect as per recommendations of Review DPC”.

5. The aforesaid order indicates that the impugned action of the respondents was due to the orders passed by this Tribunal in OA No. 4657/2011 (**Devender Singh Yadav vs. Indian Trade Promotion Organisation & Ors.**) dated 08.10.2012, which is filed as Annexure A-17 along with the OA. Shri Devender Singh Yadav is the second respondent in both the OAs and in pursuance of the orders in OA filed by him only the impugned orders were issued. The applicant in O.A. No. 980/2013 was the respondent No.2 in the said OA No. 4657/2011.

6. The said Shri Devender Singh Yadav filed the said OA No. 4657/2011 seeking the following reliefs, as mentioned in the order dated 08.10.2012 itself:-

“Applicant, Devender Singh Yadav, an UDC in India Trade Promotion Organisation (for short ITPO) has filed the present Original Application praying therein:

“(i) That the order dated 07.08.1995 promoting the Respondent No.2 to Upper Division Clerk giving notional seniority w.e.f. 26.10.1990 may be held illegal and set aside.

(ii) That the departmental final seniority list dated 01.08.1995 may be held as illegal same be and set aside.

(iii) Any other relief, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case, may also be passed in favour of the applicant.

(iv) Cost of the proceedings be awarded in favour of the applicant and against the respondents".

7. This Tribunal after hearing the arguments on behalf of the said Shri Devender Singh Yadav and also of the applicant Shri Brij Raj Singh Tyagi, who was respondent No.2, disposed of the said OA as under:-

"Though in view of the legal position settled as above, we could have taken a final view in the matter, but since neither of the parties could produce the order in terms of which the respondent No.2 could be regularized w.e.f. 05.09.1980, i.e., the date mentioned in the seniority list dated 01.08.1995, we are unable to know in what circumstances, the applicant is regularized as LDC from said date. Thus we remit the matter back to respondent No.1 to take a view regarding the date of regular appointment of respondent No.2 as LDC and the consequences thereof, keeping in view the aforementioned judgments of Hon'ble Supreme Court, within two months from the date of receipt of a certified copy of this order.

OA stands disposed of. No costs".

8. As this Tribunal remitted the matter back to the respondent-ITPO to take a view regarding the date of regular appointment of the applicant in the instant OA as LDC, the respondents in pursuance of the said orders constituted a review DPC and the said review DPC in its meeting held on 20.12.2012, after considering the entire service records pertaining to the applicants in both the OAs as well as of the said Shri Devender Singh Yadav, recommended that the notional promotions given to the applicant in OA No.980/2013 to the categories of LDC & UDC are to be withdrawn and the promotion given to the post of Senior Assistant shall be cancelled and in respect of the applicant in OA No. 3570/2013, it was recommended that the promotions given to him in respect of Senior Assistant and Executive (GC) shall be cancelled and his seniority as Senior Assistant shall be refixed.

9. In view of the said recommendations of the review DPC, the respondents passed the impugned order dated 08.01.2013.

10. Admittedly, the second respondent, i.e., Devender Singh Yadav was appointed as LDC on 26.08.1983, on regular basis and whereas the applicants in both the OAs were appointed as LDC subsequent to the said date. In the absence of any challenge by the applicants to the said position, we do not find any illegality in the

recommendations of the review DPC and the consequential action of the respondents in issuing the impugned orders.

11. In the circumstances, both the OAs are dismissed being devoid of any merits. No costs.

Let a copy of this order be also kept in OA No.3570/2013.

***(Shekhar Agarwal)***  
***Member (A)***

***(V. Ajay Kumar)***  
***Member (J)***

cc.