(2018) 12 CAT CK 0120

In the Central Administrative Tribunal

Case No : Original Application No. 2259 Of 2012

Sunil Dutt APPELLANT

Vs

Union Of India And Ors. RESPONDENT

Date of Decision : 06-12-2018

Acts Referred:

Citation : (2018) 12 CAT CK 0120

Hon'ble Judges : L. Narasimha Reddy, J;Aradhana Johri, Member (A)

Bench : Division Bench

Advocate : Sumant Bhardwaj, Mridula Ray Bhardwaj, Vedant Bhardwaj, Rinchen Wangma, Padma Kumar S., Rajeev Kumar

Final Decision : Disposed Off

Judgement

L. Narasimha Reddy, J

1. This OA is filed challenging the order dated 08.12.2011 passed by the administration of CBI withdrawing the proposed revised seniority list of Inspectors as on 01.01.2010. In addition to that, the applicant prayed for directions to the respondents to grant benefits of the order dated 25.01.2011 passed in OA No.1021/2010. Other reliefs were also claimed.

2. The applicant was directly recruited as Sub Inspector in the CBI, and over the period he was promoted as Inspector. In the context of seniority he found that the Inspectors who are taken on deputation from other departments were given the seniority from the date of deputation, instead of the date of permanent absorption. Accordingly, he filed OA No.1021/2010. The Tribunal disposed of the OA on 25.01.2011 directing that the seniority of the officers taken on deputation shall be reckoned only from the date of their permanent absorption and not from the date of initial deputation. Order dated 8. 12.2011 was passed purportedly to be implementing the judgment, in OA No.1021/2010 and another OA.

3. Feeling that the same runs contrary to the directions issued by the Tribunal in the said OA, the applicant filed MA No.3488/2011. The Tribunal, however, took

the view that no individual rights have been adjudicated in the OA, and only general principles were laid down, and in case the applicant feels aggrieved by the impugned order, he has to institute separate proceedings. Accordingly dismissed the MA through order dated 28.02.2012.

4. The applicant filed W.P. No.2783/2012, and that was dismissed on 11.05.2012. Accordingly, the present OA is filed.

5. The applicant contends that once there was a clear determination in OA No.1021/2010 to the effect that the seniority of the Inspectors who are taken on deputation must be reckoned from the date of permanent absorption and not from the date of deputation, there was no basis for the respondents to issue the impugned order.

6. The respondents filed a counter affidavit supporting the impugned order. According to them, there are guidelines issued as regards the preparation of the seniority list containing the names of officials who are directly recruited in the department and those who are taken on deputation, and that the impugned order was issued strictly in accordance with them. Various contentions advanced by the applicant are refuted.

7. We heard Mr. Sumant Bhardwaj, leaned counsel for the applicant and Mr. Padma Kumar S. for private respondents and Mr. Rajeev Kumar for R-1 to R-3.

8. The manner of fixation of seniority between the Inspectors who are borne on the rolls of CBI from the very inception on the one hand, and those who are taken on deputation from other departments, on the other, was the subject matter of quite large number of proceedings. In fact, diametrical opposite views were expressed in some of the cases by this Tribunal.

9. In the recent past, a Full Bench of this Tribunal in Alok Kumar & Ors. vs. Union of India & Ors., OA No.3314/2012 & Anr., dealt with the very question in detail, after the case was remanded by the Delhi High Court. Four factors that have a bearing on this issue were taken into account, and ultimately, it was held through the judgment dated 17.08.2018 that the view taken by the Tribunal in D. S. Dagar and Others v. Union of India and Others (OA No.101/2004 decided on 31.08.2004) does not represent the correct legal position, and that the one in D. M. Sharma vs. Union of India and Others (OA No.3245/2009 decided on 18.01.2011) lays down the correct principles.

10. The issue now needs to be dealt with in accordance with the principles laid down therein. We, therefore, dispose of the OA in terms of the judgment in D. M. Sharma (supra). There shall be no orders as to costs.

