
(1998) 04 SC CK 0004

In the Supreme Court Of India

Case No : C.A. No. 3133 of 1993 (with No"s. 2131-32 of 1998 (CC No. 23295 of 1993))

Union of India and Another

APPELLANT

Vs

G.R.K. Sharma

RESPONDENT

Date of Decision : 16-04-1998

Acts Referred:

Constitution of India, 1950 — Article 309

Citation : AIR 1999 SC 535 : (1998) AIRSCW 3843 : (1998) 80 FLR 909 : (1998) 7 JT 241 : (1999) LabIC 219 : (1999) 1 SCALE 7 : (1998) 6 SCC 186 : (1999) 1 UPLBEC 15

Hon'ble Judges : S. Saghir Ahmad, J;G. B. Pattanaik, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The order of the Central Administrative Tribunal dated 28-7-1992 in OA No. 247 of 1991 is being assailed in this appeal by the Union of India. The question for consideration is whether the past service rendered by an employee under the redeployment scheme can at all be counted for the purpose of his experience for being considered for promotion to the post of Upper Division Clerk. Admittedly, the respondent was appointed on the basis of the redeployment scheme by order dated 6-3-186 as Lower Division Clerk on a temporary basis in the Security Printing Press, Hyderabad and it was clearly indicated in the appointment order that he will take the juniormost position in the cadre of Lower Division Clerk of the press. In 1990, certain posts of Upper Division Clerk fell vacant. The promotion to the post of Upper Division Clerk from Lower Division is governed by a statutory rule framed in exercise of powers under proviso to Article 309 of the constitution, called the Security Printing Press Recruitment Rules, 1985. Under the said Rule, for being eligible for consideration for promotion, the requirement is Lower Division Clerk with regular service eight years in the grade. Admittedly, the respondent had not served for eight years as a Lower Division Clerk in the organisation in which he was brought by way of redeployment. But he filed the

application before the Tribunal contending inter alia that the appointment order merely indicates that he will obtain the juniormost position in the cadre of Lower Division Clerk and that does not wipe off the past experience which he had acquired in the earlier organisation and therefore that should be taken into account as experience as required under the recruitment rules for being considered for promotion to the post of Upper Division Clerk. The Tribunal in the impugned judgment having accepted the said contention on having directed the Union of India to consider the respondent for being promoted to the post of Upper Division Clerk, this appeal has been preferred.

2. Mr. V.C. Mahajan, the learned Senior Counsel appearing for the Union of India, contends that in view of the statutory rule clearly indicating that regular service of eight years in the grade would make a Lower Division Clerk eligible for being considered for promotion to the Upper Division Clerk, the Tribunal committed error in taking into account the past service rendered by the respondent and directing the Union Government to consider the case of the respondent for promotion to the Upper Division Clerk. The learned Counsel appearing for the respondent on the other hand contended that in the absence of any embargo in the appointment order or in any other provision, the past experience was required to be counted for the purpose of deciding the eligibility for promotion of the respondent to Upper Division Clerk and consequently the Tribunal has not committed any error. Having considered the rival contentions as well as the relevant recruitment rules governing the question of promotion, we are of the considered opinion that a redeployed employee who has been posted in the Printing Press must render eight years of service as a Lower Division Clerk in the Printing Press so as to be eligible for being considered for promotion to Upper Division Clerk. The expression "regular service of eight years in the grade" would connote rendering eight years of service in the organisation to which he has been appointed. In a somewhat similar situation, this Court has considered similar expression in the case of Union of India (UOI) and Others Vs. K. Savitri and Others, where it has been held that the past service of redeployed surplus employee cannot be counted for his seniority in the new organisation and equally, the past experience also would not count as the so-called past service rendered will not be service in the grade. The aforesaid decision interpreting the similar expression "service in the grade" would equally apply in the present case where the statutory rule also uses the expression "regular service of eight years in the grade."

3. In this view of the matter, the Tribunal committed serious error in counting of past service of the respondent and directing the union Government to consider his case for promotion to Upper Division Clerk. The impugned order of the Tribunal is set aside and OA No. 247 of 1991 is dismissed. This appeal is allowed but in the circumstances, no order as to costs.

In C.C. No. 23295 of 1993

4. Delay condoned.

5. Permission to file SLP is granted.
6. Leave granted.
7. In view of the order in Civil Appeal No. 3133 of 1993, no further direction need be issued in this matter.
8. The appeal is disposed of.