

(2013) 01 DEL CK 0365

In the Delhi High Court

Case No : Writ Petition (C) 4518 of 2001 and 4175 of 2002

UOI and Others

APPELLANT

Vs

Shiv Kumar Gupta
 K. Subramaniam and Others Vs
Shiv Kumar Gupta and Others

RESPONDENT

Date of Decision : 17-01-2013

Acts Referred:

Citation : (2013) 01 DEL CK 0365

Hon'ble Judges : Veena Birbal, J;Pradeep Nandrajog, J

Bench : Division Bench

Advocate : Anuj Aggarwal and Mr. Gaurav Khanna, for the Appellant; Anuj Aggarwal, Advocate and Mr. Gaurav Khanna, Advocate for UOI in W.P. (C) 4175/2002, for the Respondent

Final Decision : Dismissed

Judgement

Pradeep Nandrajog, J.—Same order dated February 15, 2001 passed by the Central Administrative Tribunal allowing O.A. No.

2017/1999 filed by respondent Shiv Kumar Gupta in both the writ petitions has been assailed by the Union of India and 3 out of 9 private

respondents impleaded by him in the original application. None appears for the 3 private respondents in the original application who are the writ

petitioners in W.P. (C) No. 4175/2002, the said writ petition is accordingly dismissed in default.

2. Having heard learned counsel for the Union of India and Shiv Kumar Gupta who appears in person, since we agree with the view taken by the

Tribunal, we simply bring out one manifest absurdity in the stand taken by the department vis-à-vis Shiv Kumar Sharma.

3. The issue pertains to the date with effect wherefrom seniority would be

reckoned of those who join service under Defence Research

Development Organization (DRDO) on deputation basis but are subsequently absorbed. Highlighting that the applicable Recruitment Rules permit

induction in various posts in DRDO by deputation and that a power exists in the Rules to relax the same, we simply highlight that Shiv Kumar

Gupta as also the 3 writ petitioners of W.P. (C) No. 4175/2002 join against different posts in DRDO on deputation basis and were subsequently

permanently absorbed to the post they had joined on different dates. Whereas K. Subramanian, Ajay Singh and D. Venkateswarlu were accorded

seniority w.e.f. the date they joined as deputationists, Shiv Kumar Gupta was accorded benefit of seniority w.e.f. the date he was permanently

absorbed, and qua him the stand of the Union of India and DRDO is that since he was working at a post at a lower pay scale in the parent

department and joined under DRDO as a deputationist at a higher pay scale, upon absorption, he was rightly accorded seniority w.e.f. the date of

absorption.

4. But what do we find? Put in a tabular form, as under:-

5. Learned counsel for the petitioner has no answer to give. Even K. Subramanian who like Shiv Kumar Gupta was working in the Military

Engineering Service was in the same scale of pay as Shiv Kumar Gupta and even he too joined as a deputationist to a post in a higher pay scale.

Similar is the position with Ajay Singh, whose scale of pay in Bharat Electronics Limited was on IDA pattern and notwithstanding the figures was

less than that in which he was placed in DRDO where the CDA pattern was adopted. Identical is the position of Venkateswarlu. Thus both writ

petitions are dismissed but without any order as to costs.