

ITEM NO.18

COURT NO.6

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil)...../2012
CC 4822/2012

(From the judgement and order dated 28/07/2011 in WA No.38993/2002,
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

B.P. GAUR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for c/delay in filing SLP)

Date: 26/03/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s) Mr. Arjun Garg, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

Delay condoned.

The petitioner, who was promoted as adhoc Draftman on 2.3.1979 against the post which was to be filled by direct recruitment and whose services were regularised videe order dated 5.7.1984 with a clear stipulation that his adhoc service shall not be counted for the purpose of fixation of seniority, filed Original Application No.910 of 1993 before the Central Administrative Tribunal, Allahabad Bench (for

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short, 'the Tribunal') for issue of a direction to the respondents to re-fix his seniority in the cadre of Draftsman by taking into consideration the adhoc service rendered by him with effect from 2.3.1979.

By a detailed order dated 22.5.2002, the Tribunal dismissed the Original Application and held that in view of the clear stipulation contained in order dated 5.7.1984, the

petitioner is not entitled to have the seniority fixed in the cadre of Draftsman with effect from 2.3.1979.

Undeterred by the rejection of his claim by the Tribunal, the petitioner filed Writ Petition No. 38993 of 2002, which was dismissed by the Division Bench of the High Court by making the following observations:

"From the pleadings of the parties and also from the order of the Tribunal, it reveals that in order to overcome a particular situation on account of non filling of the post from direct recruitment they came to be appointed on Adhoc basis as Draftsman. They continued to serve on the post till 1984. As a one time exception, it was decided to test their suitability and if found suitable they would be regularized. The order dated 5.7.1984 clearly mentions that the regularization of their Adhoc promotions shall count from 6.6.1984. The relevant extract of the order is quoted below:-

(i) That the promotions of the applicants were not against the promotional quota, but in the vacancies of direct recruitment quota, to be adjusted when direct recruitments are made;

(ii) That the promotions were a one time exception only as normally they would be promoted only against their own quota of promotional posts and that too after a full test whereas they were subject to only a viva voice test; and

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(iii) That the period spent of adhoc promotion will not count towards seniority, which would be effective only from 6.6.1984.

The import of the aforesaid order clearly reveals that as a one time exception they were regularized w.e.f. 6.6.1984. Promotion would become effective only from that date. They cannot claim any benefit of the seniority from the date they were working on Adhoc basis i.e. 2.3.1979. This is because of the fact that they were promoted against the vacancies which belong to the direct recruitment quota. They could claim their regularization from the date when they were appointed on Adhoc basis provided such promotions were made from promotional quota. They cannot claim any benefit of seniority, from the date they were appointed on Adhoc basis, on the post which is quota to filled up by direct recruitment."

We have heard Shri Arjun Garg, learned counsel for the petitioner and are convinced that the reasons assigned by the Tribunal and the High Court for refusing to entertain

the petitioner's claim for fixation of seniority in the
cadre of Draftsman with effect from 2.3.1979 are legally
correct and the special leave petition deserves to be
dismissed at the threshold. Ordered accordingly.

(Parveen Kr.Chawla)
Court Master

(Phoolan Wati Arora)
Court Master