

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

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Court : Delhi

Decided On : Jan-17-2013

Judge : Pradeep Nandrajog

Appellant : K.Subramaniam and ors.

Respondent : Shiv Kumar Gupta and ors.

Judgement :

\$~R-40 & R-40A * IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Decision: January 17, 2013 + W.P.(C) 4518/2001 UOI & ORS. Petitioners Represented by: Mr.Anuj Aggarwal, Advocate with Mr.Gaurav Khanna, Advocate. versus SHIV KUMAR GUPTA Respondent Represented by: Respondent No.1 in person. AND W.P.(C) 4175/2002 K.SUBRAMANIAM & ORS. Represented by: None. Petitioners versus SHIV KUMAR GUPTA & ORS. Respondents Represented by: Respondent No.1 in person. Mr.Anuj Aggarwal, Advocate with Mr.Gaurav Khanna, Advocate for UOI. CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MS. JUSTICE VEENA BIRBAL PRADEEP NANDRAJOG, J.

(Oral) 1. 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.

2. 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.

3. 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--vis Shiv Kumar Sharma.

4. 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.

5. But what do we find? Put in a tabular form, as under:Sl. Name No.

1. Shiv Kumar Gupta W.P.(C) 4518/2001 & 4175/2002 Parent Organization with Scale Military Engineers Services `3000-4500 Scale under DRDO on deputation `3700-5000 Page 2 o

2.

3.

4.

6. K.Subramanian Ajay Singh D.Venkateswarlu Military Engineers Services `3000-4500 `4100-5300 Bharat Electronics Ltd. `3100-5150 (IDA) `3700-5000 (CDA) Andhra PWD `1050-1600 `3000-4500 [`1100-1600 (prerevised)] 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.

7. Thus both writ petitions are dismissed but without any order as to costs.
(PRADEEP NANDRAJOG) JUDGE (VEENA BIRBAL) JUDGE JANUARY 17
2013//kks//

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