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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC01135592007

+ **W.P.(C) 7573/2007**

UOI & ANR

.....Petitioners

Through: Mr. Balendu Shekhar, CGSC
Mr. Rajkumar Maurya, Mr. Krishna
Chaitanya and Mr. Divyansh Singh Dev,
Advocates

versus

M.L.KALRA

.....Respondent

Through: Mr. Piyush Sharma, Mr. Anuj
Kumar Sharma and Mr. Shubham Singh
Advocates

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE VINOD KUMAR

JUDGMENT (ORAL)

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01.09.2026

C. HARI SHANKAR, J.

1. The respondent was appointed as LDC/Computer in the Ministry of Shipping and Transport, later known as the Ministry of Surface Transport. He was promoted as Junior Investigator and regularised on the post on 10 June 1980. He was thereafter appointed as Junior Technical Analyst¹ on deputation basis in the Department of Science and Technology on 22 August 1981.

¹ "Jr. TA" hereinafter



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2. In April 1982, a separate Department of Non-Conventional Energy Sources² was carved out of the DST and the services of the respondent were placed in the DNES. The DNES was converted into a full-fledged Ministry of Non-Conventional Energy Sources³ with the Solar Energy Sector⁴ as its technical division.

3. The respondent was appointed as Technical Analyst⁵ on direct recruit basis in the SEC on 16 October 1985.

4. Admittedly, as per the Recruitment Rules⁶ applicable to the DST, JA was entitled, on completion on three years, for being considered for promotion as JA(Tech). According to the respondent, his case was recommended for consideration for promotion as JA(Tech) by the Secretary, DNES.

5. However, as this recommendation did not fructify in anything concrete, the respondent approached the Central Administrative Tribunal⁷ by way of OA 445/91. The Tribunal disposed of the OA on 31 January 1992, with a direction to the DNES and the SEC to consider the respondent's representation and take a decision thereon by a speaking order within four months.

6. On 13 October 1992, the respondent was promoted as JA(Tech). However, he was reverted to the post of TA on 11

² "DNES" hereinafter

³ "MNES" hereinafter

⁴ "SEC" hereinafter

⁵ "TA" hereafter

⁶ "RRs" hereinafter

⁷ "the Tribunal" hereinafter



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September 1998. The respondent approached the Tribunal, assailing his reversion, by way of OA 509/1999.

7. By judgment dated 26 July 2001, the Tribunal disposed of OA 509/1999, observing that he was entitled to further promotion as Senior Scientific Officer Grade-II/Scientist 'B'⁸ and Senior Scientific Officer, Grade-I⁹.

8. Paras 9 and 10 of the judgment of the Tribunal in OA 509/1999 may be reproduced thus:

“9. Respondents themselves admit in their reply to Para 4.5 of the O.A. that applicant was appointed to the post of Technical Assistant in SEC on direct recruitment basis w.e.f. 15.10.85, and in terms of the amended Recruitment Rules has long since acquired the qualifications of three years regular service as T.A. eligibility for consideration for promotion as Junior Analyst (T).

10. In terms of the alternative prayer contained in Para 2 of this order, the OA succeeds and is allowed to the extent that respondents are directed to consider applicant for promotion as J.A. (T) in accordance with rules and instructions within three months from the date of receipt of a copy of this order. Applicant may, thereupon work out his rights in regard to further promotions. No costs”.

9. Thus, there was a positive finding, in para 9 of the judgment dated 26 July 2001 of the Tribunal in OA 509/1999, that the petitioner had admitted, in its counter-affidavit filed by way of response to the said OA that, in terms of the extant RRs, the respondent had long since acquired the required eligibility qualifications of three years' regular service as TA, for consideration

⁸ “SSO-II” hereinafter

⁹ “SSO-I” hereinafter



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for promotion as JA (Tech).

10. The petitioners, who were the respondents before the Tribunal in OA 509/1999, have not placed, on record, the counter affidavit filed in response to the said OA and we have, therefore, to proceed on the premise that the recital in para 9 of the judgment dated 26 July 2001 is correct.

11. Besides, it is undisputed that there has been no challenge to the judgment dated 26 July 2001 passed by the Tribunal in OA 509/1999. The petitioners cannot, therefore, seek to wish away the finding in para 9 of the judgment rendered by the Tribunal in that case.

12. It is this finding on which, essentially, the dispute in the present case turns.

13. In March 2001, RRs for the post of JA (Tech) in the DNES were framed and were amended in October 2001. The respondent was regularised as JA (Tech) with effect from 2 November 2001. This, according to Mr. Balendu Shekhar, learned CGSC for the petitioners, amounted to compliance with the direction contained in the judgment dated 26 July 2001 *supra* in OA 509/1999.

14. Contending that he was entitled to promotion as JA (Tech) on expiry of three years from the date he was appointed as TA on direct recruitment in the SEC on 16 October 1985 and that, therefore, his promotion as JA (Tech) with effect from 2 November 2001 was grossly belated, the respondent approached this Court by means of



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WP (C) 12371/2005. By order dated 18 August 2005, this Court allowed the respondent to withdraw the writ petition and approach the Tribunal, in view of the judgment of the Supreme Court in ***L Chandra Kumar v. Union of India***¹⁰. It was further directed, apropos the aspect of limitation, that the Tribunal would bear in mind the time spent by the respondent in this court.

15. The respondent, therefore, re-approached the Tribunal by way of OA 2668/2005, in which the presently impugned judgment has come to be rendered.

16. Before the Tribunal, the respondent contended that, as the DNES had no RRs of its own till 2001, promotions to the post of JA(Tech) to higher posts were being effected on the basis of the RRs prevalent in the DST. The examples of one Dilwar Singh, B S Negi and R D Sharma were provided as persons who had been promoted as JA (Tech) on the basis of the RRs prevalent in the DST. The respondent contended that he was similarly situated.

17. Contesting the case set up by the respondent, the petitioners submitted before the Tribunal that the OA was highly belated and deserved to be dismissed on limitation. It was further submitted that the law did not permit regularisation of the respondent as JA (Tech) from a back date. It was further submitted that the *ad hoc* promotion of respondent as JA (Tech) on 13 October 1992 was in violation of the law and could not, therefore, result in a right to regularisation.

¹⁰ (1997) 3 SCC 261



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18. It was further submitted by the petitioners before the Tribunal that the post of TA in the SEC was an isolated post with no promotional avenues till 2001 when RRs were framed for the DNES, providing for promotion from the post of TA to the post of JA (Tech). Following the said RRs, the respondent was regularised as JA (Tech) on 7 November 2001 and further promoted as Scientist 'B' w.e.f. 12 January 2006.

19. No further relief, it was submitted, was permissible to the respondent.

20. The Tribunal has, in the impugned judgment, not accepted the stand of the petitioners. It has been found by the Tribunal that, in the absence of any RRs for the post of JA (Tech) in the SEC, promotions had been effected to the said post, by applying the RRs applicable to the DST. The respondent, it was observed, was entitled to similar treatment.

21. Applying the RRs for the post of JA (Tech) in the DST, the respondent became eligible for promotion to the said post in 1988-89, as he had been directly recruited as TA in the SEC on 16 October 1985. His right for being considered for the said promotion could not, therefore, be gainsaid.

22. The Tribunal has also rejected the plea that the OA was barred by time given the fact that the respondent had approached this Court which has specifically granted liberty to him to approach the Tribunal.



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To be fair, Mr. Balendu Shekhar, before us, did not advance the plea of limitation as a ground to contest the impugned judgment.

23. Pursuant to these findings, the Tribunal has, in the impugned judgment, issued the following directions:

“12. In the result, for the foregoing reasons, OA is disposed of with a direction to respondents to reconsider the claim of applicant for promotion to the posts of SSO-II, SSO-I, PSO etc. at par and in the same manner when other incumbents for want of recruitment rules, as figured in paragraph-13 of the OA have been considered. In that process, if so advised, as per the methodology of promotion a review DPC is to be held, the same may be held and on fitness of applicant, as per Rules and instructions on accord of notional promotion, revision of retiral benefits shall be the consequences, which would entail payment of pay and allowances. This shall be done within a period of three months from the date of receipt of a copy of this order. No costs.”

24. Aggrieved by the aforesaid decision, the Union of India, through the DNES, has approached this Court by means of the present writ petition.

25. We have heard Mr. Balendu Shekhar, learned CGSC for the petitioners and Mr. Piyush Sharma, learned counsel for the respondent.

26. Everything, clearly, hinges on whether the respondent was, or was not, entitled to be regularized as JA (Tech) in 1988. This issue, according to us, cannot be reopened at this stage in view of the judgment dated 26 July 2001 of the Tribunal in OA 509/1999. It has specifically been noted by the Tribunal, in para 9 of the said decision, that *the petitioners had, in their reply to para 4.5 of OA 509/1999,*



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admitted the fact that the respondent had been directly recruited as TA on 16 October 1985 and had long acquired the requisite three years' service as TA as would render him eligible for promotion as JA (Tech). Inasmuch as the RRs for the post of JA (Tech) in the DNES were yet to be framed as on the date of pronouncement of the said decision, it is obvious that the allusion to acquiring of eligibility could not be relatable to the RRs which were to be framed in future. The only inescapable conclusion is, therefore, that it was admitted, by the petitioners, before the Tribunal, that the respondent was entitled, on completion of three years as TA, to have been promoted as JA (Tech).

27. The directions issued by the Tribunal in its judgment dated 26 July 2001 in OA 509/1999 have, therefore, to be understood in that light.

28. Moreover, the judgment dated 26 July 2001, of the Tribunal in OA 509/1999 was never challenged by way of writ or by any other cognate proceeding. It, therefore, attained finality and binds the parties to the *lis*.

29. There is, therefore, nothing illegal in the findings of the Tribunal, in the present case, that the respondent had become eligible for promotion as JA (Tech) in 1987-88 on completion of three years from the date when he was directly recruited as TA.

30. In that view of the matter, the petitioners were clearly unjustified in reverting the respondent, in 1988 from the post of JA (Tech) to which he had been promoted on 13 October 1992.



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31. The findings of the Tribunal in that regard cannot, therefore, be questioned. The entitlement of the respondent to have his further promotions to the post of SSO-I/Scientist-B, SSO-II, higher posts reckon, treating him as JA (Tech) with effect from 13 October 1992 cannot, therefore, be gainsaid.

32. We, therefore, do not find any legal or jurisdictional error in the approach of the Tribunal, as manifested in the impugned judgment dated 7 June 2007 in OA 2668/2005.

33. We, however, clarify that the petitioner would be only required to consider the respondent for promotion as SSO-II, SSO-I, PSO, etc. holding review DPC as per the Tribunal order, within a period of 12 weeks. The entitlement of the respondent to such promotion would, no doubt, be subject to his being found suitable for the said posts.

34. The petition is disposed of, in the aforesaid terms.

C. HARI SHANKAR, J.

VINOD KUMAR, J.

SEPTEMBER 1, 2026

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