

SUPREME COURT OF INDIA

Sh. J.P.S. Saroha

Vs.

Union of India

(K Ramaswamy and D Wadhwa JJ.)

10.04.1997

ORDER

This appeal by special leave arises from the order of the Central Administrative Tribunal, Principal Bench New Delhi made on May 30, 1986 in O.A. No.173/1986. The admitted position is that appellant No.1 was appointed as a Junior Scientific Assistant, Grade II on 3067. He was made permanent on April 1, 1970 and was further promoted as Senior Scientific Assistant on 1.10.1973 in Defence Research and Development Organisation. Similarly the second appellant was appointed as Junior Scientific Assistant, Grade I on 6.6.1967 and was made permanent on April 1, 1970. He was promoted as Junior Scientific Assistant, Grade I on 25.3.1971. All have held while they were continuing in Defence Research & Development Organisation (DRDO). Subsequently, in 1976, the Technical Committee (Engineer Stores) was constituted and it was transferred so as to be under the charge of Director General of Inspection. They were transferred within that Department and continued to be in the said Department. With effect from January 30, 1979, the Department was further trifurcated as Director General of Inspection and Technical Committee (Engineers Stores). It would appear that the chances of promotions accelerated in DRDO. The appellants, therefore, claimed repatriation to the DRDO from Director General of Inspection. Since the respondents' requests were not acceded to, they filed O.A. in the Tribunal. The Tribunal dismissed the O.A. Thus, this appeal by special leave. It is contended for the appellants that by fortuitous circumstances, they have been posted in the Director General Inspection and in the Technical Committee (Engineers Stores). Since common seniority was maintained prior to the trifurcation, they had no grievance for their continuance under the control of Director General of Inspection, At the time of trifurcation, though the Department called for option from Grade-I but to Grade-II Officers, no such option was given, The appellants said that this was against their wishes. They

cannot be made to suffer the continuance in a transferee Department and, therefore, they are entitled to all the benefits of promotions. When a person junior to him in DRDO was confirmed and promoted to a higher post, the appellants claimed parity. Having regard to the contentions, the question that arises for consideration is: whether the non transfer of the appellants to the DRDO is vitiated by any manifest error warranting interference? It is seen that initially DRDO and DGI were two separate operations. In respect of the service in Technical Committee, personnel were discharging the respective duties assigned to them and the personnel therein were transferred to the administrative control of the Director General of Inspection. The entire wing having been transferred, to be in the control of the Director General of Inspection, necessary consequence would be that the personnel working there would remain in the Department. It is not the case of the transfer of the employees from one Department to other Departments on option basis. Under these circumstances, though the persons have been appointed subsequent to them while they remained within the charge of DRDO Department, they cannot claim that injustice has been done to them. Under these circumstances, we think that there is no illegality in the order passed by the Tribunal warranting interference. The appeal is accordingly dismissed. If there are any rights given to them and the personnel similarly situated have given accelerated, that would be a different cause of action. The appellants would be free to avail of remedy as is available under the law.