

PETITIONER:
SHRI NARAYAN YESHWANT GORE

Vs.

RESPONDENT:
UNION OF INDIA & ORS.

DATE OF JUDGMENT 26/04/1995

BENCH:
SAHAI, R.M. (J)
BENCH:
SAHAI, R.M. (J)
MANOHAR SUJATA V. (J)

CITATION:
1995 SCC (4) 470 1995 SCALE (3) 611

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

This appeal is directed against the order passed by the Central Administrative Tribunal rejecting the petition filed by the appellant for granting and extending to him the same benefits as were granted to the persons similarly situate in view of the decision given by this Court in Narender Chadha & Ors. vs. Union of India & Ors. reported in 1986 (1) SCR 211.

The brief facts that are necessary to be mentioned are that the appellant joined National Sample Survey Organisation as Inspector on 25th July, 1950. He was promoted as Scrutiny Inspector on 4th November, 1954. He was further appointed as Assistant Superintendent in 1955. On 6th March, 1961, he came to be deputed to the Census Department at Nagpur and worked there from 6th March, 1961 to 21st October, 1969 as a Tabulation Officer. Then he was granted proforma promotion in his parent department. The post of Tabulator was subsequently redesignated as Superintendent. The appellant while working in the Census Department was promoted as Assistant Director of Census operation w.e.f. 21st October, 1969 and continued till 31st December, 1974. While he was working there a question arose about his consideration in the present department. A letter dated 21st January, 1970 which has been extracted by the Tribunal indicates that department considered that since the appellant was in the Census Department and there were short-term vacancies only, it was not necessary to offer the post to the appellant or to ask him to come back to the department. In these circumstances, he continued in Census Department. He could not be given even proforma promotion as there was no regular vacancy. But his appointment as Assistant Director in the Census Department was with the concurrence of the Census Department, parent Department and the Union Public Service Commission. In 1975, he came back to his parent Department and was appointed as Assistant Director on 11.4.1975 on adhoc basis. While he was on

deputation in the Census Department his juniors had also been promoted as adhoc in his parent Department. Some of them were appointed in 1969. On 11th February, 1986 the decision in Narender Chadha (supra) was rendered by this Court. It was held that all those officers who were appointed as Assistant Directors in the Organisation should be deemed to have been appointed substantively from the date of their adhoc appointment. In consequence of this decision, those juniors who had been appointed on adhoc basis in the parent Department between 1969-75 became senior to the appellant. Reason for it was that the decision has confined the applicability of benefit to only those who were working in the Department. Since the appellant was working in the Census Department and he was appointed adhoc in the parent Department from 1975, he was appointed substantively from that date only. The appellant, therefore, was left with no option except to approach the Tribunal which has recorded every finding in favour of the appellant but expressed its inability to grant any relief as in view of the decision of this Court he could not be deemed to be ad hoc appointee in the Department.

The facts narrated above clearly indicate that the appellant was similarly situated along with those who were granted benefit by this Court. May be, he was working in the Census Department. But since the post in the Census Department and in the parent Department was ad hoc post and the Department itself considered that his continuance in the Census Department did not affect him and, therefore, he was not offered the post of Assistant Director in the parent Department, he could not be prejudiced. The benefit given in Narender Chadha (supra), therefore, should be extended to the appellant and he too should be deemed to have been working as Assistant Director on adhoc basis in the parent Department in Grade IV since October, 1969. He should be deemed to have been confirmed from the date his junior was confirmed.

We further find that Sri Chaurasia, one of the juniors of the appellant was promoted as ad hoc on 22nd May, 1986 after the decision was given by this Court calculating his seniority from 1969 and he was given promotion in 1986 as Deputy Director with effect from 17.3.1983. It is not disputed that the post of Deputy Director is a promotional post. It is not a selection post. Since the appellant was senior to Shri Chaurasia who was promoted as Deputy Director from 1983, the appellant too shall be deemed to have been promoted as Deputy Director from 17.3.83.

The appeal is accordingly allowed. The order of the Tribunal is set aside. The claim petition of the appellant succeeds in the manner indicated above.

We are informed that the appellant has retired. He shall be entitled to all the benefits which flow from this order. There shall be no order as to costs.