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Central Administrative Tribunal, Principal Bench

Original Application No. 1570 of 2002

New Delhi, this the 7th day of June, 2002

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. S.A.T. Rizvi, Member(A)

Amir Chand Kakkar,
Aged 47 years
C/o Director, Northern Region Farm
Machinery Training & Testing
Institute, Hissar

R/o 836, Sector-13
Hissar, Haryana-125001

.... Applicant

(By Advocate: Shri A.K. Behra with Shri Kalyan Dutt)

Versus

1. Union of India
Through its Secretary
Dept. of Agriculture & Co-op.
Krishi Bhawan, New Delhi
2. Director
Northern Region Farm Machinery
Tools & Training Institute
Hissar, Haryana-125001
3. Director
National Biofertiliser Development
Centre, CGO Complex
Kamala Nehru Nagar,
Ghaziabad-201002
4. Shri Ram Prakash Sharma
C/o Director
Northern Region Farm Machinery
Tools & Training Institute
Hissar, Haryana-125001

.... Respondents

O R D E R (ORAL)

By Hon'ble Mr. S.A.T. Rizvi, Member(A)

The applicant and respondent no. 4 were appointed as LDCs in the office of respondent no. 2, respectively on 17.1.77 and 11.5.73 whereafter the aforesaid respondent no. 4 was duly selected for appointment as UDC in the office of respondent no. 3 on deputation basis, initially for a period of three years. While he was still on deputation, he sought absorption in the office of

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respondent no.3 and was duly absorbed on 3.7.96 (Annexure A-8). While the respondent no.4 thus continued to work in the office of respondent no.3 as UDC on absorption basis, the applicant was promoted as UDC in the office of respondent no.2 w.e.f. 19.5.2000 on ad-hoc basis. On 16.6.2000, the applicant was regularly promoted as UDC on the basis of the recommendations made by the DPC. While the matters had thus settled down in so far as the applicant and the aforesaid respondent no.4 are concerned, an office order was issued on 30.10.2000 ordering repatriation of respondent no.4 to his erstwhile parent department namely the office of respondent no.2. The respondent no.2 did not allow the respondent no.4 to join his organisation and this led to filing of an OA, being OA No.2435/2000. When the matter came up before us, an ad-interim order of stay was granted on 22.11.2000 (Annexure A-13) against the operation of the aforesaid order of repatriation. The applicant accordingly continued to work in the office of respondent no.3. However on 5.12.2000, the respondent no.1 issued a letter (Annexure A-1) directing the respondent no.2 to take back the respondent no.4 against the vacant post of LDC and to grant to him all the consequential benefits. On the basis of the aforesaid letter of 5.12.2000, aforesaid OA No.2435/2000 was disposed of on 7.6.2001 as infructuous.

2. The learned counsel appearing on behalf of the applicant submits that the respondent no.1 has meanwhile issued a letter on 15.1.2002, a copy of which could not be procured by the applicant, whereby the respondent no.2 has

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been directed to hold a review DPC for the post of UDC in the Northern Region Farm Machinery Training & Testing Institute, Hissar ^{2, Respondent no. 2 herein, &} and to revert the applicant to the grade of LDC and to promote the respondent no. 4 to the post of UDC. The learned counsel for the applicant argues that even if the respondent no. 1 is keen on dispensing justice in favour of respondent no. 4, it is by no means necessary to proceed in a manner so as to adversely affect the prospects of the applicant. This matter has been upheld as a principle by the Supreme Court in the case of Prem Prakash etc. vs. Union of India & ors. decided on 22.8.84 reported in AIR 1984 SC 1831, paragraph 11 whereof provides as follows:

"11. It is ironical that the rectification of injustice done to some two persons should result in injustice to two others. But that is exactly what has happened in this case as if to illustrate that one man's food is another man's poison. The condition of the High Court is that though the petitioners were in the merit list of 11 persons for the year 1980, they could not be appointed as Sub-Judges because Ajaib Singh and Ram Swarup who were wrongly excluded from the reserved appointments of 1979 had to be accommodated in the merit list of 1980 and after adjusting them against the reserved vacancies of 1980 no reserved vacancies were left for the candidates who were placed in the merit list of 1980. When in furtherance of the decision taken by the Full Court meeting of the High Court we directed on Sept. 2 1981 that the two candidates of 1979 must be included in the 1979 panel and appointed as Sub-Judges despite the expiry of the duration of that panel little did we realise and it was not so stated before us that the appointment of those two candidates of 1979 will mean the ouster of these two candidates of 1980. Such a strange result is to be avoided if not at all costs at least within the framework of the Rules and the administrative instructions governing this matter. Justice to one group at the expense of injustice to another is perpetuation of injustice in some form or the other."

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Aggrieved as above, the applicant has filed a

representation on 7.2.2002 (page 38-39 of the paper book). To this, there has been no response so far.

4. Considering the aforesated facts and circumstances and the submissions made by the learned counsel, we find that ~~interests~~ of justice will be duly met in the present case by disposing of the OA at this very stage even without issuing notices with a direction to the respondents to consider the aforesaid representation and to pass a reasoned and a speaking order thereon within a maximum of two months from the date of receipt of a copy of this order. We direct accordingly.

5. In the peculiar circumstances of this case, we further direct that the review DPC proposed to be held for promoting respondent no.4 shall remain stayed until the orders as above are communicated to the applicant and for a period of another one month thereafter. O.A. is disposed of in the aforesated terms.

Issue DASTI.


(S.A.T. Rizvi)
Member(A)

/dkm/


(Ashok Agarwal)
Chairman