

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.342/98

Hon'ble Mr. Justice K.M.Agarwal, Chairman
Hon'ble Sh. R.K. Ahooja, Member (A)

New Delhi, this the 25th day of February, 1998

Shri Pritam Chand
s/o Shri Laturia
r/o Press Colony, Type-II
Qr. No.118, Mayapuri
New Delhi.

... Applicant

(By Shri D.R.Gupta, Advocate)

Vs.

1. The Director of Printing
Ministry of Urban Affairs & Employment
Nirman Bhawan
New Delhi.
2. The Manager
Govt. of India Press
Ring Road
New Delhi.

... Respondents

O R D E R

Hon'ble Shri R.K.Ahooja, Member(A)

We have heard the counsel on admission. The applicant who was holding a regular post of Daftary in the pay scale of Rs.2610-3540 was promoted and transferred to the post of Assistant Binder w.e.f. 1.8.1997 on the basis of a Departmental Promotion Committee. He apprehend that one Shri R.K.Gauhar, who was working on the post of a Sweeper in the pay scale of Rs.2650-3200 has represented against the applicant's promotion claiming that he is senior to the applicant and that the respondents are going to order a Review DPC. The applicant has tried to show that the claim of Shri R.K.Gauhar is baseless and that his own promotion as Assistant Binder was correct on the basis of his inter-se seniority and merit.

2. Since, prima-facie, it appeared to us that the OA was pre-mature, the learned counsel for the applicant was asked to address us on the question of jurisdiction. Shri D.R.Gupta,

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learned counsel for the applicant argued that applicant's apprehension was real as the respondents had found merit in the representation of Shri R.K.Gauhar. He cited the judgment of this Tribunal in Prem Dass Adiwai Vs. Union of India & Others, 1994(27) ATC 368 in support of his submission that cognizance could be taken of his grievance at this stage. We have perused the Judgment. The applicant therein was asked to show whether he had passed the matriculation examination or not and if not then necessary action would be taken against him. Since the applicant therein had not passed the matriculation examination the Tribunal held that even though the applicant had not been reverted, he could be reverted any time; in fact, the decision had already been taken for the reversion of the applicant and only the consequential order had to be passed. In the circumstances the applicant had a right to seek an injunction from the Tribunal that he should not be reverted. Another case cited by the learned counsel for the applicant is Shri B.G.Ramdas Naik Vs. Chief Personnel Officer (Southern Railway) Madras and Others, AISLJ 1992(3) CAT 249, in which it was held that when the applicant apprehended penal or disciplinary action on the basis of the cancellation of his caste certificate, the Tribunal had jurisdiction to entertain the application. Relying on the Supreme Court judgment in State of Maharashtra Vs. Jagannath Achyut Karandikar, 1989(10) ATC 593, the learned counsel also argued that the Rules have to be so interpreted as to be harmonious with the Scheme in order to mitigate hard-ship and that Section-19 of the Administrative Tribunals Act, 1985 has to be so construed and interpreted as to be in harmony with the Scheme for providing a mechanism for redressal of the grievances of Government servants.

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3. We have considered the matter carefully. In the present case not only there is a complete absence of any order adversely affecting the interest of the applicant, there is also no hint on the part of the respondents which would, by implication or by inference suggest that such action is imminent. In Prem Dass Adival (Supra) the applicant therein had received a communication asking him to confirm that he had passed the matriculation examination and was clearly told that if the answer was in the negative, his services were liable to be terminated. The threat to the applicant's interest therein was thus not only palpable but also immediate. In Shri B.G.Ramdas Naik (Supra) also the Tribunal had noted that the cancellation of caste certificate would directly affect the service interest of the applicant. On the other hand, in the instant case, the applicant speaks of a representation by another colleague on which action is likely to be taken by the respondents. We find on record neither a decision of the respondents nor even a copy of the representation filed by Shri R.K.Gauhar. In fact, Shri Gauhar has not even been impleaded as a party. In the circumstances, we are unable to establish a nexus between any action on the part of Shri R.K.Gaur to the action apprehended on the part of the respondents. We are thus left with the feeling that the present OA is nothing but an attempt to find out what the respondents propose to do on the representation of Shri R.K.Gauhar. This in our view would be a misuse of the judicial process of the Tribunal.

4. We are therefore, constrained to treat the OA as premature. Accordingly the same is dismissed at the admission stage itself. Needless to add that the applicant is free to

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approach this Tribunal if so advised if any action ultimately
taken, on the representation of Shri R.K. Gauhar, by the
respondents, adversely affects his interest. No costs.


Km.
(K.M. AGARWAL)
CHAIRMAN

R.K. Ahuja
(R.K. AHUJA)
MEMBER (A)

/rao/