

(69)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A./~~XXX~~ No.276/95

Decided on:

Shri Hari Chand. ... Applicant (s)

(By Shri N.Ranganathaswamy. Advocate)

Versus

UOI & OTHERS. ... Respondent (s)

(By Shri B.K.Agarwal. Advocate)

CORAM:

THE HON'BLE SHRI S.R.Adige, Member (A)

THE HON'BLE ~~XXX~~ DR.A.Vedavalli, Member (J)

1. Whether to be referred to the Reporter or not? *Yes*

2. Whether to be circulated to the other Benches of the Tribunal? *Yes*

AV.
(DR.A.VEDAVALLI)
MEMBER (J)

S.R.Adige
(S.R.ADIGE)
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A. No. 276/95

November 30th, 1995.

HON'BLE MR. S.R. ADIGE, MEMBER (A).

HON'BLE DR. A. VEDAVALLI, MEMBER (J).

Shri Hari Chand,
H.No.53/5, Sanyat Line,
Near Santhandharan Mandir,
Delhi

.....Applicant.

By Advocate Shri N. Ranganathaswamy.

Versus

Union of India through

1. The Secretary,
Ministry of Defence,
North Block,
New Delhi.

2. The Adjutant General's Branch,
Org-4 (Civil),
Army HQ,
DHQ P.O. New Delhi.

3. The Station Commander,
Station HQ,
Delhi Cantt.

4. Adm. Commandant,
Station HQ,
Delhi Cantt.

5. DAA and QMG,
Station HQ,
Delhi Cantt.

6. Station Staff Officer,
SSO(B)
Station HQ.
Delhi Cantt.

.....Respondents.

By Advocate Shri B.K. Agarwal.

JUDGMENT

By Hon'ble Mr. S.R. Adige, Member (A).

In this application Shri Hari Chand has sought promotion as Clerk on regular basis w.e.f. 27.8.83, along with consequential grant of salary, allowances and seniority.

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2. The applicany who admittedly is a graduate and belongs to the SC community , was appointed as a Conservancy Safaiwala in 1981 on a temporary basis and was regularised as such in 1983. It is his case that although he was appointed to and is receiving the pay of Group 'D' employee, he has ~~all along~~ been discharging the duty of a Clerk (Group 'C'), and his representations for promotion as IDC with retrospective effect and for arrears have gone unheeded.

3. The respondents contend that merely because the applicant was maintaining files does not mean that he was appointed as a Clerk/Typist(para 4.9 of their reply). They state that he was not dealing with any file, and he has no right to the salary of a post other than the one to which he was appointed. They further state that even assuming (but not admitting) that he was being utilised for the post of Clerk as claimed by him, there was no representation from him prior to 11.1.95.

4. We have heard Shri Ranganathaswamy for the applicant and Shri B.K.Agarwal for the respondents .

5. Manifestly if the applicant is claiming promotion as Clerk on regular basis w.e.f. 27.8.83 along with consequential pay, allowances and seniority, he should have filed this O.A. much earlier. It appears that what has prompted him to file this O.A. at this belated stage is the order dated 5.1.95 transferring him as Conservancy Safaiwala from his present place of posting at Station H.Q Delhi Cantt. to 972 IPT Coy, as would be clear from

his representation dated 17.1.95 (Annexure-F),
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He contends that if he has to be transferred to 972 TPT.Coy. he should be transferred as Clerk and not as Consy.Safaiwala, having put in over 14 years of service discharging the duties of Clerk.

6. From the reply dated 31.1.95 (Annexure-A) of the respondents, it appears that they have taken up the matter of sanction with the concerned authorities, but meanwhile they state that as long as the applicant continues to be appointed as a Consy.Safaiwala he can be transferred and paid only as a Consy.Safaiwala.

7. The stand of the respondents as contained in their letter dated 31.1.95 is legally sustainable. Furthermore, if the applicant had any grievance in regard to being paid the salary of a Safaiwala, while being put to work as Clerk, he should have challenged that well in time, but he has done so with great delay and only after he has been ordered to be transferred from Station H.Q. to 97 2 TPT. Coy in Jan, 1995.

8. We note, however, that the respondents themselves have under consideration his promotion as IDC. The respondents are called upon to expedite their consideration and take a final decision in the matter as soon as possible, and preferably within three months from the date of receipt of a copy of this judgment.

9. This O.A. is disposed of accordingly. No costs.

A.Vedavalli
(DR. A. VEDAVALLI)

MEMBER(J)

S.R.Adige
(S.R.ADIGE)

MEMBER (A)

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