

PRINCIPAL BENCH, NEW DELHI.

OA. No. 454/95

Dated this the 21st of March, 1995.

Shri N.V. Krishnan, Hon. Vice Chairman(A)
Dr. A. Vedavalli, Hon. Member(J)

Shri Subhash Chandra,
C.M.D. Grade-I/MT Section,
Ordnance Factory, Muradnagar,
Ghaziabad, U.P.

...Applicant

By Advocate: Mrs. Mridula Roy.

versus

1. Union of India through
Secretary,
Ministry of Defence,
Department of Defence Production,
South Block, New Delhi.

2. Director General,
Ordnance Factory Board,
6, Auckland Place,
Calcutta-1.

3. General Manager,
Ordnance Factory,
Muradnagar,
Ghaziabad, U.P.

...Respondents

By Advocate: None.

O R D E R (Oral)

We have heard the learned counsel for the applicant.

2. She has produced for our perusal a copy of the judgement referred to, in the Annexure A-3. The conviction was on 15.2.90 under section 454, 324 and 307 IPC. An appeal has, no doubt, been filed before the High Court and operation of the Judgement has been stayed. It is also stated that the respondents were kept informed about these proceedings as can be seen from the Annexure A-1 memorandum which seeks information from the applicant as to the position of the appeal filed in the High Court.

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3. It is stated that the applicant was promoted on 24.9.93 by the Annexure A-2 order, which states that the promotion has been made on the basis of the recommendation of the DPC. The applicant is aggrieved that, on 25.1.95, by the Annexure 3 notice, he has been asked to show cause why the promotion given to him should not be cancelled and why he should not be reverted to the lower post, as, according to the standing instructions of the Government, a person should not be promoted in such circumstances.

4. A reply has been filed to the show cause notice. The matter is still pending. The OA is filed for quashing the show cause notice and an interim direction is sought to stay the proceedings.

5. We have heard the learned counsel. She contends that the position of law is entirely contrary to what has been assumed by the respondents viz. that until the conviction is maintained, such action cannot be taken. She, therefore, requests that the proceedings may be stayed.

6. We have considered the matter. The respondents have only issued a show cause notice and reply has been given. It is for the respondents to consider the reply in the first instance and to pass such order as they deem fit in accordance with law. Thereafter, if the applicant is aggrieved, it is open to him to seek out intervention. In the circumstances, we find that this application is premature.

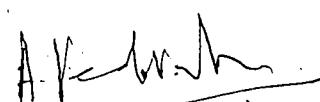
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7. At this stage, the learned counsel for the applicant seeks permission to withdraw the application with liberty to agitate the matter, whenever grievance arises.

8. In the circumstances, the permission is granted.

9. The OA is dismissed as withdrawn on the above terms.



(Dr. A. Vedavalli)
Member(J)



(N.V. Krishnan)
Vice Chairman(A)