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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 171/94

New Delhi dated the 10th February, 1994

Hon'ble Mr. N.V. Krishnan, Vice Chairman (A)

Hon'ble Mr. B.S. Hegde, Member (Judicial)

Shri Hardev Singh Nanda, UDC

S/o Sh. Sardar Singh Nanda,
R/o 82/5 Pushp Vihar,
New Delhi

... Applicant

(By Advocate Sh. B.L. Babbar)

Versus

1. Union of India (Through)
Secretary, Ministry of Defence (DGQA)
Deptt. of Defence Production
South Block, New Delhi
2. The Director General,
Quality Assurance Organisation,
Deptt. of Defence Production,
South Block, New Delhi
3. The Senior Quality Assurance Officer
Quality Assurance Establishment (ARMTS)
T-18 Kandhar Lines, Delhi Cantt.

... Respondents

(None for the respondents)

ORDER (ORAL)

(Hon'ble Sh. N.V. Krishnan, Vice Chairman (A))

The applicant is aggrieved by the Ann. No. 8
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order by which/ is transferred from the Cash Section
to the Finance Section of the Administration in the
office of the 3rd respondent (Sr. Quality Assurance
Officer, Quality Assurance Establishment, under the
Ministry of Defence.

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2. The case of the applicant is that he was a U.D.C. and was promoted by the Ann.A.3 order dated 28.2.1989 as cashier in insitu w.e.f. 1.3.1989 vice Shri B.R. Pant, cashier, transferred. He states that he was holding this post since then. The post of cashier carries the same pay-scale as that of a U.D.C. but with a special pay in addition.

3. The grievance of the applicant is that, without any reason, respondents have now issued Ann.A-8 order, which is a mutual transfer between Shri Sita Ram who is posted as cashier while the applicant is transferred to the Admn.(Finance Section) in his place. Therefore, he has filed this O.A. for a direction to quash the impugned order and that the applicant be restored to the post and duties of cashier.

4. The learned counsel for the applicant has produced the recruitment rules in this behalf viz the Department of Defence Production (Directorate General of Inspection) Class-II I Non-Gazetted (Non-Technical). Posts Recruitment Rules, 1969⁰ Rules for short. We notice that the post of cashier is shown to carry the same pay scale as that of UDC plus the special pay as admissible in accordance with the Govt. of India orders issued from time to time. The post is

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not to be filled up either by direct recruitment or by promotion. Instead, it is filled up by transfer of UDCs with 3 years regular service in the grade, who have atleast 1 year's experience of accounts and handling of cash on the basis of recommendations of the Departmental Promotion Committee.

5. The main contention of the applicant is that he is senior to Sita Ram. Therefore, he alone can hold this post in preference to his juniors.

6. We are unable to accept this contention.

Admittedly, the Rules do not contemplate this to be a promotion. The contention of the ld.counsel would have force only if the post is to be filled up by promotion. In the present case it is to be filled by transfer of qualified UDCs. Therefore, the respondents are at liberty to appoint any eligible person to man this post by transfer. Perhaps, the Department felt it equitable to give a chance to the qualified persons to hold the post and earn the special pay, by rotation.


7. Ld.counsel for the applicant has drawn our attention to the judgement of the Madras Bench of this

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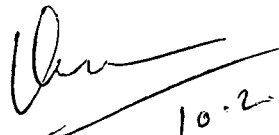
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Tribunal in R.Dorairaj V/s U.O.I. Secy.Govt. of India 1992(19) ATC 172 a brief note of which is published in Swamy's case Law Digest Vol.IV 1990.We notice that it was held that where an administrative matter was decided in public interest, it cannot be interfered with.

8. We are of the view, that when a question of promotion is not involved, the executive has full liberty to make transfers in an office for the proper conduct of work. We, therefore, find no merit in the O.A. Accordingly, it is dismissed at the admission stage.


(B.S. Hegde)

Member(J)


10.2.94
(N.V. Krishnan)

Vice Chairman(A)

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