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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

R.A. No. 461/93
in
O.A. No 2121/93

Hon'ble Member Mr. J.P. Sharma, Member (J)
Hon'ble Member Mr. B.K. Singh, Member (A)

27.5.94

Shri A.N. Pruthi,
Son of Shri Ladha Ram Pruthi,
Resident of 1922 Mukerji Nagar Phase III,
Opp. I.D. Hospital,
Delhi. .. Applicant
(By Advocate Shri D.R. Gupta)

Vs.

1. The Medical Superintendent,
Dr. Ram Manohar Lhia Hospital,
New Delhi.

(By Advocate Shri Jog Singh)

2. Shri D.N. Chugh,
Head Clerk, Stores Sections,
Dr. Ram Manohar Lohia Hospital,
New Delhi.

(By Advocate Shri A.K. Behra)

3. Shri H.C. Madan,
Head Clerk,
Dr. Ram Manohar Lohia Hospital,
New Delhi. ... Respondents

(By Advocate Shri M.L. Ohri)

O R D E R

Hon'ble Member Mr. J.P. Sharma, Member (J)

The present application was filed by the applicant challenging the order of reversion dated 5.10.1993 to the post of Head Clerk. The applicant was promoted from the post of Head Clerk by the Order dated 6.9.1993 to the post of Office Superintendent, Dr. Ram Manohar Lohia Hospital, New Delhi. An Interim Direction was issued that the impugned order dated 5.10.1993 shall remain stayed provided an order promoting Shri D.N. Chugh to the post of Office Superintendent has not already been passed.

(b)

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This order continued by various orders passed extending the same till 5.11.1993, further continuation of this interim order as well as the merit of the application was considered and the Original Application was ^{disposed of} passed by the order dated 9.11.1993 that the impugned order of reversion does not call for any further extension and is, therefore, vacated. But till the ^{list} seniority/is finalised no ad hoc appointment shall be made, which should follow only after the final seniority list is notified. However, it was made clear that if the applicant is finally declared senior, he will get all the consequential benefits from the date of his reversion in the matters of pay, allowances, seniority etc.

2. In this Review Application it is contended that the respondents did not finalise the seniority list and the order under review has been passed without having received the seniority list of the Head Clerks as also the Departmental Promotion Committee proceedings which the respondents had failed to file at that time. It is further averred in the Review Application that the Tribunal in stead of drawing an adverse inference against the respondents had drawn an inference against the applicant. That the applicant had now obtained inter se seniority list of the Head Clerk which the respondents have been operating for acting promotion to the post of Office Superintendent on regular basis as also on ad hoc basis and also a copy of the proceedings of the D.P.C. which indicates that the rival claims of the applicant as also of Shri D.N. Chugh were considered and having regard of the fact that the applicant had on earlier occasion being promoted Head Clerk on Ad hoc basis prior

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to his regular promotion and in view of his length of service as Head Clerk had more experience as compared to Shri D.N. Chugh, recommended promotion to the applicant till the date of superannuation i.e. 31.12.1993. Only thereafter the claim of other candidates including that of Shri D.N. Chugh and Shri S.C. Madan was to be considered. It is, therefore, prayed that the judgement be reviewed as the decision of the Tribunal has not considered the documents i.e. the inter se seniority list and the proceedings of the D.P.C. for promotion to the post of Office Superintendent on ad hoc basis from the post of Head Clerk.

3. A notice was issued to the respondents after admission of this review application. In para 7 of the reply, the respondents have stated that there was a dispute between the seniority of Shri A.N. Pruthi and Shri D.N. Chugh. It is also submitted that the seniority list has not yet been finalised as a number of employees has raised objections on the provisional seniority list issued on 1.9.1993. Regarding the proceedings of the DPC, it is averred in the reply that the name of Shri Joginder Singh who is already working as Office Superintendent on ad hoc basis has not been placed before the DPC. His name would have been placed before the DPC. The applicant would not have been considered for the post of Office Superintendent as he does not fulfil the requisite qualification as required under the rules.

4. We heard the learned counsel for the parties Shri D.R. Gupta for the Review Applicant and Shri Jog Singh for the official respondents, Shri A.K. Behra for Shri D.N. Chugh and Shri M.L. Dhri for Shri S.C. Madan.

5. Basically the official respondents were directed to file the final seniority list of the Head Clerks as well as the proceedings of the DPC. The stand of the respondents is that they could not place the name of Shri Joginder Singh before the D.P.C. and the applicant was considered for ad hoc promotion. Now the Review Applicant has furnished the proceedings of the D.P.C. as Annexure to the Review Application. The D.P.C. has recommended the name of Shri A.N.. Pruthi for a short period as he was to retire on 31.12.1993. His name has been finally recommended and accepted by the Department. The DPC has also considered the claims of others. The Review Applicant has also filed the seniority list which was effective on the date when the DPC met and there was no other seniority list till the date of retirement on superannuation of the applicant, the seniority list of Head Clerk has been finalised. Shri A.N. Pruthi admittedly shown as senior to Shri D.N Chugh. The name of Shri S.C. Madan does not appear in this seniority list. Shri Joginder Singh had already been working on ad hoc basis on the post of Office Superintendent. These documents were not placed at the time when the Judgement under review was passed after hearing the parties on 9.11.1993. In view of this the interest of the applicant was cared that no ad hoc appointment shall be made till the seniority list is finalised and if the seniority list is finalised and the applicant Shri A.N. Pruthi is finally declared senior, he will get all the consequential benefits. Now since the respondents have not finalised the seniority list and the seniority list which was operating till the date of superannuation of the applicant, is the

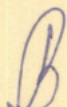
list where the applicant has been shown senior, in such a situation the applicant can not be reverted till he superannuates on 31.12.1993. The applicant has been reverted on 11.12.1993, As a result of which the pay of the applicant was reduced to Rs.1900/- from Rs. 2,000/-. As the seniority list in vogue was the one in which the applicant was senior. The counsel for the applicant also as well as the private respondents could not show another seniority list and only they have pointed out that the seniority of the applicant in the grade of Head Clerk is disputed. Since the controversy was not settled before his superannuation and the D.P.C. has already recommended his name till his superannuation, the respondents cannot take a stand of reverting the applicant to the post of Head Clerk. The order, therefore becomes arbitrary. Had these facts been placed before the Bench, then the conclusion arrived at in the Judgement would have definitely gone in favour of the applicants.

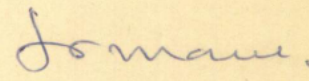
6. In view of the above facts and circumstances, the Review Application is allowed and the last ten lines of the Judgement on the last page commencing from the "Impugned Order..... seniority etc." is substituted by the above finding given in this application and these findings will be added as Para No. 5 of the said judgement.

7. The Original Application is, therefore, allowed and it is directed that the impugned order of reversion of the applicant dated 5.10.1993 is not called for, being arbitrary and discriminatory and is therefore quashed and

~~attached~~ and the applicant shall be deemed to be as
Office Superintendent in Dr. Ram Manohar Lohia Hospital
even after his reversion with effect from 11.12.1993
till the date of superannuation i.e. 31.12.1993 and
shall be entitled to all benefits of salary being the
difference of the post of Head Clerk and Office

Superintendent and shall be restored to his original pay
which he was getting before the order of his reversion
which will count for his pension, gratuity and other
terminal benefits. The respondents should comply
with the above directions within three months from
the date of receipt of the copy of the Judgement.
Parties to bear their own costs.


(B.K. Singh)
Member (A)


(J.P. Sharma)
Member(J)

Mittal