

6.

Central Administrative Tribunal  
Principal Bench, New Delhi

Regn. No. CA-954/89

Date: 10.8.1989.

Shri Mahabir Singh .... Applicant

Versus

Union of India through  
Secretary, Ministry of  
Industry. .... Respondents

For the Applicant .... Ms. Meera Bhatia, Advocate

For the Respondents .... Shri M.L. Verma, Advocate

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)  
Hon'ble Shri M.M. Mathur, Administrative Member.

1. Whether reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*

(Judgement of the Bench delivered by Hon'ble  
Shri P.K. Kartha, Vice-Chairman)

The applicant, who has worked as a Peon in the office of the respondents since September, 1981, has filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying that the respondents be directed to stay his reversion by the impugned order dated 27.3.1989 from the post of L.D.C. to Peon, or any other post, and that the respondents be directed to permit him to continue in the post of L.D.C.

2. The application was admitted on 5.5.1989 when notice was issued to the respondents on the prayer for interim relief to the effect that the respondents be directed to stay the reversion of the applicant from the post of L.D.C. to any other post. As the prayer for interim relief is the same as that of the main

*DA*

.... 2... ,

relief sought in the application, we have heard both the parties on 30.5.1989. We have also gone through the records of the case carefully.

3. The facts of the case in brief are that the applicant, at the time of his entry into service, was a Peon. At that time, he had only passed IX Class. Thereafter, he obtained permission of the respondents for appearing in Matriculation Examination from the Board of Adult Education and Training. <sup>or</sup> He appeared at matriculation from the said Board in 1983 and he was declared successful in the examination. Thereafter, he was promoted as L.D.C. on ad hoc basis w.e.f.

18.11.1985. By the impugned order dated 27.3.1989, he was reverted to the post of Peon w.e.f. 23.3.1989. The said order which has been set out in Annexure 'X' to the application states that the applicant, along with another person, was promoted on the basis of Secondary School Examination Certificate awarded to him by the Board of Adult Education & Training. It has further been stated that "it has been found that the above certificates are not recognised by the Delhi Administration/Board of Secondary Education, Delhi. As they do not possess the requisite qualification, they are reverted to their Group 'D' posts w.e.f. 23.3.1989(F.N.)."

4. The applicant has alleged that no show-cause notice was given to him before the impugned order was passed. He has stated that he had made a representation on 5th April, 1989 but the respondents have denied having received any such representation. The applicant has contended that the respondent is estopped from stating

02

that he qualified from a Board which is not recognised. He had asked permission from the respondents and submitted all his papers to them, including the name of the school and examination Board. If the Board was not recognised, the respondents should have asked him to go to another school. That was not done. Instead, after he has worked for four years in the post of L.D.C., the respondents have issued the impugned order on the plea that the examination passed by him was not recognised.

5. The applicant has further stated that the educational qualification acquired by him from the Board of Adult Education & Training has been entered in his service record, that the permission to appear for the examination conducted by the said Board should not have been granted to him if the same was not recognised by the Government, that he could have gone to another school which was recognised by the Government had he been told earlier about the same, and that matriculation from the said Board is recognised by other departments/undertakings of the Government of India.

6. The respondents, in their counter-affidavit, have contended that it was brought to their notice by "similarly appointed persons", that the applicant was in possession of matriculation standard examination certificate issued by the Board of Adult Education and Training, New Delhi, which is neither recognised by the Delhi Administration nor by the Board of Senior Secondary Education and that he was not eligible for appointment to the post of L.D.C. However, they have not stated as to when this was brought to their notice. They have further stated that they

O

have received nominations of the S.S.C. qualified candidates who are replacing the ad hoc appointees in a phased manner. As to the contention of the applicant that they gave permission to him to pursue further studies, it has been contended that this was done as a matter of policy by the Government but it did not confer any right on such Government servants to claim higher posts on the basis of certificates of higher educational qualifications obtained by them. As regards the reversion of the applicant, the respondents have contended that this was made after ascertaining from the concerned authorities that the certificate produced by him was accepted by the respondents on the misconception that it is recognised by the Delhi Administration but after ascertaining that it has not been so recognised, he was reverted.

7. Admittedly, the applicant has worked as L.D.C. for over three years. There is no allegation that his work and conduct during this period were not upto the mark. It is not the case of the respondents that the applicant was reverted on finding him guilty of having produced a false certificate. There is also no allegation against him of concealing any fact about the genuineness of the certificate submitted by him. He sought and obtained permission from the respondents to appear for the matriculation examination conducted by the Board of Adult Education & Training in order to improve his career prospects. After passing the matriculation examination conducted by the Board, he produced the certificate given by the Board and the respondents accepted the same and promoted him as LDC. The contention of the applicant that had he been informed earlier that such a certificate would not make him eligible for promotion as L.D.C., he would have done his matriculation from some other Board which was recognised by the Government.

O2

has some force. The respondents not only accepted the certificate produced by him and made entries in his service-book but also allowed him to continue as L.D.C. for a period of over three years without raising any objection. In the circumstances, it would follow that the respondents had no doubt about the genuineness of the certificate submitted by the applicant.

8. In view of the foregoing, we are of the opinion that the impugned order of reversion dated 27.3.1989 is bad in law and must be quashed. We, accordingly, quash the said order and direct that the applicant should be given an opportunity to appear in the Matriculation Examination conducted by a Board which is recognised by the Government. The applicant should be accommodated in the post of L.D.C. till he is given such an opportunity and appears for the Matriculation Examination conducted by a recognised Board. In case he is declared successful in the examination, he should be continued in the post of L.D.C. on ad hoc basis till he is replaced by a candidate sponsored by the Staff Selection Commission or so long as a vacancy of L.D.C. exists.

9. The application is admitted and the same is disposed of with the above directions at the admission stage itself. The parties will bear their own costs.

  
(M.M. Mathur) 10/8/85  
Administrative Member

  
(P.K. Kartha) 10/8/85  
Vice-Chairman (Judl.)