

S (7)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 608/88

DECIDED ON : 1-9-93

BHUPINDER SINGH BHATIA

...

PETITIONER

Vs.

CHIEF SECRETARY, DELHI
ADMINISTRATION & ANR.

...

RESPONDENTS

CORAM :

THE HON'BLE MR. B. N. DHOUNDIYAL, MEMBER (A)

THE HON'BLE MR. B. S. HEGDE, MEMBER (J)

Shri Jog Singh, Counsel for Petitioner

Mrs. Sumedha Sharma, Proxy Counsel for Mrs.
Avnish Ahlawat, Counsel for Respondents

J U D G M E N T

Hon'ble Shri B. N. Dhoundiyal, Member (A) :

This O.A. has been filed by Shri Bhupinder Singh Bhatia while working as Assistant Superintendent in the Jail Department of the Delhi Administration, alleging that though under the rules applicable to him he could only be posted in the Jails under the Delhi Administration or deputed for Jail training, the authorities wanted him to accept ^a ~~the~~ job in the Social Welfare Department and on his refusal, kept him on an allegedly irrelevant and illegal training since 20.12.1984. A chargesheet was given to him on 15.1.1985 for being negligent in maintenance of record. His juniors were promoted to Grade II much before him while he was kept for over four years as a trainee at the Union Territory Civil Services Training Centre, New Delhi. The main reliefs prayed for are (1) to promote the applicant to the post of Deputy Superintendent Gr.II after recalling him from training and (2) to quash the departmental proceedings.

DA

2. On 8.6.1988, while opposing the grant of interim relief, the learned counsel for the respondents stated that for administrative reason the applicant cannot be allowed to stay in his present cadre but that the respondents were prepared to send him in a higher grade on transfer in the Social Welfare Department. No interim order was issued as the court felt that the applicant was at liberty to accept or refuse such transfer on a higher post. The respondents have mentioned in their counter that the applicant was posted for training on general administration in U.T.C.S. for administrative reasons.

3. As regards departmental inquiry, the impugned chargesheet dated 15.1.1985 and the punishment order passed by the disciplinary authority were set aside by the appellate authority. Her directions to the disciplinary authority to conduct fresh inquiry were challenged in O.A. No. 3054/92 decided by another Bench of this Tribunal on 9.2.1993 wherein it was held that such an order would be violative of Rule 27(2) of the C.C.S. (C.C.A.) Rules, 1965 and the fresh chargesheet was also set aside and quashed.

4. As regards the promotion of the applicant, vide order dated 26.4.1993, he has been promoted to Grade II notionally with effect from 1.7.1987 and his seniority has been duly fixed. His only remaining complaint is that though he was forced to ^{be} undergo training he has not been given the benefit of arrears of pay and allowances for the period on the ground that he did not actually work on the post of Dy. Superintendent Gr.II.

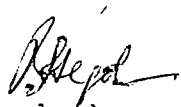
5. We have gone through the records of the case and ~~had~~^{seen} the learned counsel for the parties. It is obvious that due to administrative reasons the authorities did not find it possible to retain him in his parent department and thought it fit to depute him for training to U.T.C.S. F.R.20 provides that "In respect of any period treated as duty under Rule 9 (6) (b), a Government servant may be granted such pay as Government may consider equitable but in no case exceeding the pay which the Government servant would have drawn had he been on duty other than duty under Rule 9 (6) (b)." The question whether such an officer can be promoted to the next higher grade during such training or instruction has been clarified in Govt. of India, Ministry of Finance O.M. No. F.1(7)-E.III(A)/78 dated 14.3.1978. It was clarified that there should be no objection to the promotion of an employee to the next higher grade with effect from the date he would have been so promoted had he not proceeded on training subject to certain conditions. He may also be ~~allowed~~^{be} to draw such officiating pay in the next higher grade which would have been drawn from time to time had he been on duty other than duty under F.R.9(6)(b).

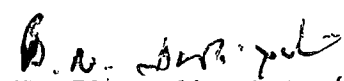
6. We hold that the applicant is entitled to the benefit of the above provisions and he should be granted pay for Grade II from the date his next junior was given officiating promotion. His pay shall also be re-fixed on this basis so that in

Siv.

no case he draws pay less than what his junior is drawing. The respondents shall issue necessary orders in this regard within a period of three months from the date of communication of this order.

7. With the above directions, this application stands disposed of. No orders as to costs.


(B. S. Hegde)
Member (J)


(B. N. Dhoundiyal) 1/3/93
Member (A)

as