

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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O.A. NO.973/88

DATE OF DECISION 30.7.1991

SHRI CHATER SINGH

.....APPLICANT

VS.

REGIONAL PROVIDENT FUND
COMMISSIONER & OTHERS

.....RESPONDENTS

CORAM

THE HON'BLE JUS SHRI U.C. SRIVASTAVA, HON'BLE VICE-CHAIRMAN (J)

THE HON'BLE SHRI I.P. GUPTA, HON'BLE MEMBER (A)

FOR THE APPLICANT

.....SHRI M.K. GUPTA

FOR THE RESPONDENTS

.....SHRI S.M. RATTAN PAL, PROXY
COUNSEL FOR SHRI G.D.GUPTA,
COUNSEL FOR RESPONDENT NO.3

SHRI RAVINDRA BHATT WITH
MS. SUNITA SINGH FOR THE
RESPONDENTS.

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

J U D G E M E N T

(DELIVERED BY SHRI U.C. SRIVASTAVA, HON'BLE VICE-CHAIRMAN (J))

The applicant is aggrieved by the order passed by the Provident Fund Commissioner, Haryana. The applicant who was working as U.D.C. in the office of Regional Provident Fund Commissioner at Faridabad, has approached this Tribunal praying that the respondents be directed to place him in his rightful post of Hindi Translator (Grade II) w.e.f. 30.1.1987 when he was wrongfully reverted from the said post and that he

7

may also be considered as continuous in the cadre of Hindi Translator (Grade II) from 14.5.1985 including the period from 30th January, 1987^{when he was wrongfully reverted} and that he may also be paid salary and other emoluments in the said cadre of Hindi Translator from 30.1.1987 and the appointment of respondent Baldev Singh be declared invalid. The applicant who was working as U.D.C., appeared in the departmental competitive examination for the post of Hindi Translators (Grade-II) and on the recommendations of the Departmental Committee, Shri D.K. Sharma and the applicant were promoted to the post of Hindi Translators vide order dated 10.5.1985. The applicant continued to work as Hindi Translator till 30.1.1987. On 30.1.1987, an order was passed and he was required to hand over the charge to respondent No.3 who had qualified in the direct recruitment examination in October, 1986. According to the applicant, the respondent, Baldev Singh is not qualified to appear in the said examination. The applicant's representation against the said reversion order failed to bring any result. Thereafter he has approached the Tribunal. The respondents have challenged the contentions raised by the applicant and it has been stated in the counter that a separate regional office at Haryana was set up w.e.f. 11.11.1983 and the combined Punjab region at Chandigarh had several posts of Hindi Translator when Haryana region was bifurcated and

9

2 posts of Hindi Translator, Grade-II were given to the Haryana region and against these 2 posts, 3 ad-hoc Hindi Translators, Grade-II of the combined region opted for transfer to Haryana. It was decided to accommodate 2 optees against those 2 posts and the third optee against one of the vacant posts of Head Clerk I till third post was created. The third was created w.e.f. 1.10.1984. The third optee Shri R.L. Gupta was accommodated against this post. This took place after coming in force of the Recruitment Rules of Hindi Translators, Grade-II which were finalised in June, 1983, according to which the post of Hindi Translator (Grade-II) were to be filled up 50% by appointment from the departmental candidates on the basis of limited departmental competitive examination and 50% by direct recruitment. In order to finalise the seniority of Hindi Translator (Grade-II), those appointed on ad-hoc basis prior to finalisation of the Recruitment Rules, the Government was requested to relax the Recruitment Rules as a measure to regularisation of the ad-hoc Hindi Translators. A roster prescribed in the Recruitment Rules putting promotees and then the direct recruits and so on for the purposes of appointment of Hindi Translators came into operation only after the in case relaxation of all the three optees in Haryana region. Accordingly, the post of Hindi Translator sanctioned in

9

October, 1984 was consumed by the third optee and rota-quota started from point number 4 of the roster. Shri D.K. Sharma, a departmental candidate who qualified in the limited departmental competitive examination alongwith the applicant on first position was promoted against the fourth post. The applicant was promoted purely on temporary and ad-hoc basis in May, 1985. The 5th post was to be given to direct recruit who secured first position in 1986 direct recruit examination. In order of merit, respondent No.3 stood first in the said examination and as the applicant for the intervening period was appointed on ad-hoc basis, after the availability of the direct recruit, he was reverted back to his earlier post and the applicant has thus no claim. So far as the qualifications of Baldev Singh, respondent are concerned, it has been stated that he was fully qualified and fulfilled all the requisite qualifications which has also been detailed in the reply and Baldev Singh has also filed a reply supporting his case and stating that the roster should have been complied with earlier and even otherwise in view of the roster system, he being a direct recruit, as a matter of fact, it was he who was to be given the 4th post and not D.K. Sharma and even if D.K. Sharma has been given the 4th post, he should have been given the 5th post and not the applicant and in no way,


applicant is entitled to any of the posts. From the record, it has been found that as a matter of fact, there were not 5 posts, but in fact 6 posts were available. One post was meant for SC and was to go to a member of SC community. One, Hari Chand who qualified in the examination, being a member of SC community, was given a higher post of Deputy Director instead of giving him the very post in which he qualified. There were some disputes in the department after continuing Shri Hari Chand. It has been stated that Hari Chand after working for some time has left the department and is working somewhere else at Agra and secondly, this post automatically became vacant. On behalf of the respondents, it has also been stated that in the month of February, 1991, the applicant has been promoted to the post of Head Clerk I, which carries more emoluments and more privileges and as such the applicant can no longer be interested in coming back to the department whatsoever be the position. But the fact emerges out that the 4th position was to go to the member of SC community. In view of the fact that the 6th post became vacant, it was the applicant who being a promotee, should have been appointed against the 6th post. Even if he was reverted, the 6th post after vacation of the post of the Deputy Director by Hari Chand, should have been given to the applicant and accordingly, we direct that from the date on which Hari Chand left the department, it should be deemed that the applicant

62

(11)

was restored back to the same position from which he was reverted by the order dated 30.1.1987 and is entitled to its consequential benefits and in case the applicant comes back to the department, obviously, he will continue to hold the saidpost and in case he continues to hold the post in his new department where he is posted, the applicant will not be deprived of any benefit which should have accrued to him on holding the post of Hindi Translator (Grade-II) against the 6th vacancy after vacation by Hari Chand. The application is disposed of with the above directions and there will be no orders as to the costs.

AKS


(I.P. GUPTA)
MEMBER (A)


(U.C. SRIVASTAVA)
VICE-CHAIRMAN (J)