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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 832/1986. DATE OF DECISION: 1-8-1991.

Shri O.P. Makhija Applicant.

V/s.

Union of India & Anr. Respondents.

CORAM: Hon'ble Mr. G. Sreedharan Nair, Vice Chairman (J).
Hon'ble Mr. S. Gurusankaran, Member (A).

Shri P.T.S. Murthy, counsel for the Applicant.
Mrs. Raj Kumari Chopra, counsel for the Respondents.

G. Sreedharan Nair:

JUDGMENT

The applicant, who joined the service of the respondents as Lower Division Clerk, was promoted as Upper Division Clerk with effect from 9.6.1972 and thereafter as Office Superintendent Grade II. It is alleged by him that subsequently he was elevated to the post of Labour Enforcement Officer (Central), a Class II Gazetted post, on ad-hoc basis by the order dated 18.5.82. His grievance is against the order dated 7.1.1984, under which he has been reverted to the post of Upper Division Clerk. He prays for quashing the said order and for directing the respondents to revive him to the post of Labour Enforcement Officer. The ground urged is that the reversion is to a non-gazetted post and that as the applicant was not the juniormost among the ad-hoc promotees he should not have been reverted. It is urged that the representation submitted by the applicant was not successful and hence the application.

2. In the reply filed by the respondents, it is stated that in accordance with the recruitment rules relating to the post of Labour Enforcement Officer, 75 per cent of the vacancies are to be filled up by direct recruitment and the remaining 25 per cent through departmental promotion. According to the respondents, having regard to the timelag in the matter of direct recruitment by the UPSC, in order to manage the functioning

in the organisation, the 75 per cent of the vacancies earmarked for the direct recruits were filled up by the eligible departmental candidates purely on ad-hoc basis as a temporary arrangement. It is stated that the appointment of the applicant was an instance of such ad-hoc arrangement. In the year 1983, out of 40 candidates nominated by the UPSC, 36 joined as Labour Enforcement Officer and while posting them, various aspects, such as their home States, languages known, experience etc., were kept in view and the orders of reversion of the ad-hoc Labour Enforcement Officers were issued in accordance with such posting and hence the reversion was not directly in accordance with the assigned seniority. However, it is pointed out that when the next batch of regular candidates from the UPSC was made available during August 1986, the juniors to the applicant had actually been reverted. The respondents further contend that as per the revised recruitment rules, only the regular Office Superintendents with the prescribed qualifying service are eligible for appointment to the post of Labour Enforcement Officer and, as such, the applicant could not be considered for regular promotion against that post. It is also pointed out by the respondents that the combined seniority list of the Upper Division Clerks and Stenographers prepared in the year 1976 was the basis for consideration for promotion to the post of Labour Enforcement Officer for filling up the vacancies falling under departmental quota and for ad-hoc promotion, and that according to that list, those who are stated to be juniors to the applicant were actually senior and hence they were promoted on ad-hoc basis in the year 1977. It was only in the revised seniority list issued in 1982 that the applicant became senior to them.

3. The short question that arises for determination is whether the order reverting the applicant from the post of Labour Enforcement Officer to that of Upper Division Clerk is sustainable. It is not in dispute that the promotion of the applicant to the cadre of Labour Enforcement Officer

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was ad-hoc and purely as a temporary arrangement. The Office Order dated 18-5-1982 (Annexure I) evidences the same. According to the recruitment rules, 75 per cent of the vacancies are to be filled up by direct recruitment.

It emerges that it was only on account of the timelag involved in the direct recruitment to be made by the UPSC that ad-hoc promotions were made by the respondents. The impugned order of reversion itself discloses that it was to accommodate a direct recruit that the applicant was directed to be reverted. As such, the order of reversion cannot be assailed, especially because the applicant has not acquired a legal right to the post of Labour Enforcement Officer.

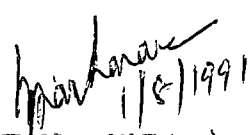
4. It was urged by the counsel of the applicant that the reversion was from a gazetted post to a non-gazetted post and hence it is illegal. There is no merit in the submission. The substantive post that was being held by the applicant was of Upper Division Clerk. His promotion to the post of Office Superintendent was only on ad-hoc basis and it was while holding that ad-hoc arrangement that he was appointed as Labour Enforcement Officer as a purely temporary arrangement. So much so, when he had to be reverted to accommodate a regularly recruited candidate, the reversion to the substantive post was made and, as such, it cannot be faulted.


5. It was further urged by counsel of the applicant that as the applicant was not the juniormost among the adhoc promotees, the reversion is bad in law. This submission was met by counsel of respondents who pointed out the norms under which the regularly recruited candidates were posted and the consequential reversion of the ad-hoc promotees was made. It was submitted by her that while making the postings, various aspects, such as, their Home States, languages known, experience etc., were taken into account and the reversions were being made as a result of such postings, so that in a few cases, some who were actually junior were continued in

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the promoted posts. However, it was submitted that when the next batch of regular candidates was made available during August, 1986, while posting them as Labour Enforcement Officer, those juniors have actually be reverted. In the circumstances, we are of the view that it cannot be said that there has been any arbitrariness or unfairness in the matter of reversion so as to infringe Article 14 of the Constitution of India.

6. In this context, a reference to the revised recruitment rules for appointment to the post of Labour Enforcement Officer is worthwhile. According to those rules, Upper Division Clerks with 5 years of regular service, who were earlier eligible for appointment as Labour Enforcement Officer, are no longer eligible; only regular Office Superintendents with the prescribed qualifying service have the eligibility. As such, at this stage, the applicant cannot claim promotion to the post of Labour Enforcement Officer. It follows that there is no merit in the application, which is accordingly dismissed.


(S. GURUSANKARAN)
Member (A)


(G. SREEDHARAN NAIR)
Vice Chairman (J)

1.8.1991.