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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No. 1820/87

.. Date of decision: 11.05.93

Sh. Suresh Gupta

.. Applicant

Versus

Union of India

.. Respondents

For the applicant

.. Sh. A. K. Gupta, Counsel.

For the respondents

.. None

CORAM

Hon'ble Sh. A.B. Gorthi, Member (A)

Hon'ble Sh. C.J. Roy, Member (J)

1. Whether Reporters of local papers may be allowed to see the judgement?

2. To be referred to the Reporters or not ?

JUDGEMENT (Oral)

(Delivered by Hon'ble Sh. A.B. Gorthi, Member (A)

The applicant is a Civilian employee in the Engineering Branch of the Western Command, Ministry of Defence. In the year 1964, he obtained a Diploma in Civil Engineering and in May, 1965, he was appointed as Junior Engineer, Office of the Chief Engineer, Western Command. In 1981, the applicant was holding the post of Superintendent, Building & Roads (B&R) Grade-II, which is a Group C post. The applicant while in service became a victim of Tetinities

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Pigmentosa disease of both eyes, as a result of which, he became partially blind. The applicant was medically examined in Feb. 1981 and the Medical Board declared the applicant as unfit for service and opined that he could be considered for a vacancy reserved for physically handicapped persons in Group C or Group D post. The applicant approached the Supreme Court in Writ Petition No. 8256/81. Disposing of the same the Hon'ble Supreme Court ordered as under :

"This petition is disposed of with the direction that the petitioner will be offered D grade post which he accepts on the condition that he will be paid pay and allowances attached to 'C' grade and in case of vacancy of 'C' grade he will be given preference provided a suitable 'C' grade post which he can man becomes available."

2. The applicant's prayer is that there are some vacancies in some Group C posts, such as Superintendent (B&R) Grade-II, Office Superintendent Grade-II and such other equivalent posts. His prayer therefore is that he should be appointed to one such Group C post.

3. The respondents in their counter affidavit, have mainly contended that due to the partial blindness of the applicant, he is not in a position to hold any post which requires supervision of construction of buildings and Roads and as such could not be given the post of Superintendent (B&R) Grade-II. Keeping in view, the directions of the Hon'ble Supreme Court, the respondents had allowed the applicant to continue in service and assigned him some duties in the Complaint Cell.

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4. We have heard the learned counsel for the applicant. Although this case was listed peremptorily for final hearing today, none represented for the respondents.

5. Sh. A.K. Gupta, learned counsel for the applicant has contended that as the applicant is performing the duties in the Complaint Cell and such duties are equivalent to those performed by the Group C employees, the respondents are not justified in continuing to show him against a Group D post. It is also his contention, as brought out in the application, that the post of Office Superintendent Grade- II is one which could be assigned to a blind person in accordance with the extant instruction of the Government of India. He has, therefore, vehemently contended that the applicant's case deserves to be considered for being shown against some suitable Group C appointment.

6. It will be pertinent to note that substantial relief to the applicant has already been given by the order of the Supreme Court dated 17.2.84. Though the applicant was accepted in Group D post, his pay and allowances attached to Group C post were protected. Further directions have already been given to the respondents that in case of vacancy of C Grade, the applicant could be given preference provided a suitable C Grade post which he could man became eligible.

7. In view of the categorical assertion made on behalf of the applicant that there are some posts of Group C Grade, which could be manned by a handicapped person, available with

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the respondents, we hereby direct the respondents to consider the case of the applicant against any such post, if available. In considering his case for appointment against a regular Group C post, the respondents may take into consideration the fact that he is already performing duties in the Complaint Cell which are ordinarily performed by Group C employees.

8. The application is allowed in the above terms and there shall be no order as to costs.

Mr. Roy
(C. J. Roy)

Member (J)

Mr. Gonthi
(A. B. Gonthi)

Member (A)