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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1612/90

New Delhi, 8.9 1994

CORAM :

THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

THE HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Mukhtiar Singh S/O Phagwa Ram,
Technical Superintendent in
Weavers Service Centre,
Meerut.

... Applicant

By Advocate Shri S. M. Garg

Versus

1. Union of India through
Development Commissioner of
Handlooms, Ministry of
Textiles, Udyog Bhawan,
New Delhi.
2. The Director,
Zonal Weavers Service Centre,
Bharat Nagar, Delhi.
3. Assistant Director (Designs),
Weavers Service Centre,
Gandhi Nagar, Meerut.

... Respondents

By Advocate Shri Madhav Panikar

O R D E R

Shri S. R. Adige, Member (A) -

In this application Shri Mukhtiar Singh has prayed that his promotion to the post of Technical Superintendent by order dated 30.8.1982 be treated as having been made in deemed relaxation of the eligibility rule requiring diploma qualification or alternatively, to consider his case under Rule 4 of the 1980 Rules for relaxation of the eligibility rule requiring diploma qualification for promotion as Technical Superintendent with all consequential benefits.

2. The applicant was appointed as a Designer in the Weavers Service Centre, Bombay on 10.2.1975, which post was re-designated as Pattern Maker-cum-Designer w.e.f. 16.10.1979 vide orders dated 17.12.1979 (Ann.-IV to the counter). On 15.4.1980 the recruitment rules for the post of Technical Superintendent were notified (Ann.-I to the O.A.) by which diploma in Handloom Technology or Textile Technology or equivalent examination from an institute recognised by the Central Government for purposes of recruitment, together with five years of experience as a Pattern Maker-cum-Designer or Weaver grade-I or in an equivalent capacity, was made essential. The post of Technical Suptd. was made a selection post, 75% of which was to be filled by promotion and the remaining 25% by direct recruitment. Promotion was to be made from amongst Pattern Makers or Designers or Pattern Makers-cum-Designers with three years' service in the grade and possessing the essential qualification described above. Under Rule 6 the Central Government was given powers to relax any of the provisions of the rules with respect to any class or category of persons of posts.

3. It appears that after the promulgation of the recruitment rules, the respondents were contemplating whether a diploma in Handloom or Textile Technology or equivalent examination from an Institute recognised by the Central Government for the purpose of recruitment, should be retained as an essential qualification in respect of departmental candidates for promotion to the post of Technical Suptd. While this matter was

under consideration, the respondents decided that pending finalisation of the amendments the existing vacancies may be filled up by promotion on ad hoc basis from amongst Pattern Makers-cum-Designers/Weavers Gr.-I who had completed three years' regular service in the grade (Ann.-V), and accordingly, office order dated 26.5.1982 (Ann.-VI) was issued, in which it was explicitly stated that the vacancies of Technical Suptd. were proposed to be filled up by promotion on ad hoc basis. The applicant was promoted as a Technical Suptd. against one of these posts in a temporary capacity on 30.8.1982 (Ann.-II), in which it was specifically stated that his promotion would not confer any right to continue on that post indefinitely or to claim seniority vis-a-vis other persons in the said post on the basis of his ad hoc promotion.

4. After having served as Technical Suptd. for about eight years, the applicant alleges that by office order dated 12.2.1990 two of his juniors were regularised as Technical Suptds. and by subsequent order dated 14.5.1990, the applicant was reverted as Pattern Maker-cum-Designer. This reversion was confirmed by two subsequent orders dated 21/22.5.1990 and 23.5.1990. He states that he represented against the reversion on 4.6.1990 but did not receive any reply, compelling him to file this O.A. He claims that upto the date he had filed the O.A. (6.9.1990), he had not yet joined the post of Pattern-Maker-cum-Designer to which he had been reverted.

5. The respondents have contested the contents of the O.A., and averred that as the applicant did not possess the essential qualification of diploma in Handloom/ Textile Technology, he could not be regularised as Technical Suptd., while his juniors S/Shri R. N. Verma and H. K. Srivastava who possessed these essential qualifications were promoted on regular basis. They state that as soon as the post was filled up on regular basis, he had to be reverted, as his ad hoc status did not give him any right to continue against that post. Furthermore, they state that the applicant reported for duty as Pattern Maker on 13.8.1990 and is continuing as such. The respondents also aver that the post of Technical Suptd. is a supervisory post, and the incumbent functions as incharge of the Weaving Section. Possession of adequate professional and academic qualifications is a must for efficient discharge of duties, responsibilities and functions attached to the post. They state that the question of relaxation of qualifications of diploma in Handloom Technology had been considered in depth in 1982 and again some time before the reply was filed and it was the considered opinion of the respondents that the qualification of diploma in Handloom Technology was necessary for the post of Technical Suptd. to meet the requirement of design development work being carried out by the Weavers Service Centres in the Handloom Sector. Experience alone would not compensate/equip the incumbent with the skill and knowledge required for meeting the demands of the post. Furthermore, they state that the essential qualification prescribed for the post of Technical Suptd. is not relaxable in any individual case.

6. We have given our careful consideration to the matter. The respondents have in their reply stated on affidavit that the post of Technical Suptd, is a supervisory post and possession of adequate professional and academic qualifications is vital for the efficient discharge of the duties, responsibilities and functions attached to the post. A diploma in Handloom Technology/ Textile Technology has been made an essential qualification for the post and as the applicant does not possess it, he cannot claim for regularisation against that post. Shri S. M. Garg stated that the applicant had functioned against the post of Technical Suptd. on ad hoc basis for nearly eight years, which gave him a right to be regularised against that post, and cited Usha Gupta's case : 1988 (1) SLR 395 in support. However, the latest judicial pronouncements on counting of ad hoc service towards seniority, where such ad hoc service is followed by regularisation, has been explained in detail in the case of I. K. Sukhija & Ors. vs. Union of India & Ors. (O.A. No. 727/87 and connected cases) decided by the Principal Bench of the Tribunal vide its decision dated 13/14.9.1993. Shortly stated, that case provides that where ad hoc service is followed by regularisation, the period of ad hoc service may be counted towards seniority only if such ad hoc appointment is made strictly in accordance with the rules or where it is made de hors the rules, if the period of such ad hoc service is of the order of 15 to 20 years. In the present case, none of these features are visible, and in any event, the applicant's ad hoc service was not followed by regularisation.

7. In view of the position explained above, the question of declaring the applicant's ad hoc promotion to the post of Technical Suptd. on 30.8.1982 as having been made in deemed relaxation of the eligibility rule requiring diploma qualification has to be rejected. Similarly, the prayer to direct the respondents to consider the applicant's case under Rule 6 of the recruitment rules by relaxing the eligibility rule requiring diploma qualification also has to be rejected, because as rightly pointed out by the respondents, relaxation cannot be given in individual cases.

8. Before parting with this case, however, we note that the applicant worked as Technical Superintendent for nearly eight years, and there ^{is} no materials on record to indicate that his work was unsatisfactory or not up to the mark. Admittedly, the applicant belongs to the SC community, whose advancement and development is a cardinal principle of public policy. If, therefore, further vacancies of Technical Suptds. arise which are required to be filled on ad hoc basis pending regular appointment, the respondents should consider the case of the applicant too. Furthermore, nothing contained in this judgment will operate as a bar to the respondents re-examining the essential qualifications prescribed for the post of Technical Suptd. in the recruitment rules, with a view to providing some relaxation in respect of members of the SC/ST communities ^{who} constitute a distinct class of persons.

9. This application is accordingly disposed of.
No costs.

Lakshmi Swaminathan
(Mrs. Lakshmi Swaminathan)
Member (J)

S. R. Adige
(S. R. Adige)
Member (A)