

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

(6)

O.A. No. 104/91
T.A. No.

199

DATE OF DECISION 1.10.1991

Shri K.R. Sharma	x Petitioner Applicant
Shri G.D. Gupta	Advocate for the Petitioner(s) Applicant
Versus	
Union of India through the Secy., Miny. of Works & Housing	Respondent & Urs.
Shri M.C. <i>Geog.</i>	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The applicant, who has worked as Head Clerk in the Public Works Department, Delhi Administration, filed this application under Section 19 of the Administrative Tribunals Act, 1985, challenging the order of his reversion from the post of Head Clerk to U.D.C. He has also prayed for issuing directions to the respondents to appoint him as Head Clerk and to pay him the arrears of salary w.e.f. 16.10.1991 in the grade of Head Clerk.

2. The application was filed in the Tribunal on 9.1.91. On 27.5.1991, the Tribunal passed an interim order to the

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effect that the respondents shall not fill up the post of Head Clerk after it falls vacant. The interim order has thereafter been continued till the case was heard' finally on 21.8.1991 and orders reserved thereon.

3. The facts of the case in brief are as follows.

The applicant joined the office of the Director General of Works, C.P.W.D., New Delhi, as L.D.C. in 1959 and he was promoted as U.D.C. in 1982. On 21.6.1990, the respondents issued an office order to the effect that the applicant was directed to work as officiating Head Clerk w.e.f. 20.6.1990 and that he will look after the additional charge till further arrangements. On 30.8.1990, the respondents issued another order, according to which, the applicant was to look after the work of Head Clerk in addition to his own seat till regular Head Clerk was posted by Superintending Engineer (Coordination).

4. By order dated 17.10.1990, the applicant was again posted as U.D.C. when Shri Nasib Chand, U.D.C. who had been promoted as Head Clerk on ad hoc basis, joined duty.

5. Shri Nasib Chand, U.D.C., who had been promoted as Head Clerk earlier, had declined to accept the offer of promotion because he had been selected for the post of Cashier and as a Cashier, he was drawing special allowance, as per the rules. He had intimated the respondents that

promotion as Head Clerk was not acceptable to him and that he might be allowed to continue to work as U.D.C. for the time being. Shri Nasib Chand had qualified in the departmental examination for promotion to the grade of Head Clerk.

6. The applicant has contended that his promotion was on the basis of reservation earmarked for physically handicapped persons. According to him, his promotion was as per the rules and that his reversion was illegal.

7. The respondents have stated in their counter-affidavit that the applicant was not promoted on the basis of reservation for the physically handicapped persons, and that the applicant had only looked after the work of Head Clerk in addition to his own duties as U.D.C.

8. We have carefully gone through the records of the case and have considered the rival contentions. There is nothing on record to substantiate that the applicant was appointed as Head Clerk in the quota reserved for handicapped persons, and that he ought to have been promoted under the said quota. The respondents have produced copy of an office order dated 14.8.1986 indicating that Shri Nasib Chand, along with some others, had qualified in the departmental examination for promotion to the grade of Head Clerk.

9. In view of the above, there is no material before us to hold that Shri Nasib Chand was not eligible for appointment as Head Clerk. The applicant, who has only looked after the work of Head Clerk in addition to his own duties in the post of U.D.C., cannot claim promotion to the post of Head Clerk as of right. At the same time, the respondents are under an obligation to implement the orders regarding reservation for physically handicapped persons contained in Office Memorandum dated 20th November, 1989 issued by the Department of Personnel & Training. According to these instructions, promotions are to be made within Group 'C' posts, keeping in view that reservation will be allowed to the extent of 1 per cent for physically handicapped persons. The respondents have not stated in their counter-affidavit as to whether they have implemented the Government instructions regarding reservation in favour of handicapped persons in the case of promotion of UDCs to Head Clerks in their office. As the post of Head Clerk belongs to Group 'C' category, the respondents are bound to implement the instructions issued by the Government in their Office Memorandum dated 20.11.1989, mentioned above.

10. In the conspectus of the facts and circumstances of the case, we dispose of the present application with a direction to the respondents that they should consider the

case of the applicant for promotion to the post of
Head Clerk in a vacancy reserved for handicapped
persons. There will be no order as to costs.

The interim order passed on 27.5.1991 is hereby vacated.

B. N. Dhoundiyal
(B.N. Dhoundiyal)
Administrative Member 11/10/91

P. K. Kartha
(P.K. Kartha)
Vice-Chairman(Judl.) 11/10/91