

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

(15)

OA No.1641/91

Date of decision: 15th May, 92

Sh.R.P.Juneja

.. Applicant

versus

Union of India & Anr. ..

Respondents

CORAM: THE HON'BLE MR.T.S.OBEROI, MEMBER(J)
THE HON'BLE MR.B.N.DHOUNDIYAL, MEMBER(A)

For the Applicant ..

Sh.B.B.Raval, Counsel.

For the Respondents ..

Sh.N.D.Arora, Assistant
Director.

JUDGEMENT

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

JUDGEMENT

(DELIVERED BY HON'BLE MR.T.S.OBEROI, MEMBER)

In this OA filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has sought for the following reliefs:-

- (1) to issue a writ of mandamus to the respondents directing them to issue immediate posting order of the applicant showing his place of posting where to join on promotion as Accounts Officer.
- (2) to direct the respondents to give him seniority from due date as ordered by the Departmental Promotion Committee alongwith all consequential benefits like pay and allowances etc.
- (3) to award exemplary cost for this petition with a request to further order any other relief/reliefs or pass any other order/orders as deemed fit in the light of the facts and circumstances of the case.

Done

16

2. After consideration of the OA for admission and interim relief prayed for therein, a notice was ordered to be issued to the respondents. An M.P(No.2509/91) was also moved by the applicant, seeking interim relief, prayed for in paragraph 9 of the OA. After considering the prayer in the Misc.Petition and after issue of notice to the respondents, the following order was passed on 20.9.91, by a Bench of this Tribunal:-

" This order will dispose of applicant's request for interim relief. By virtue of the request for interim relief, the applicant has sought a direction to the respondents to allow him to take over as Accounts Officer at New Delhi, itself, particularly, in view of the fact that three of his juniors, who have been provided posting by promotion vide Annexure A-1, have since taken over the post of Accounts Officer in their respective places.

We have heard the arguments addressed by the learned counsel for the parties for and against the request for interim relief. In view of settled legal position, the request made for the interim relief is justified. The respondents are accordingly hereby directed to promote the applicant to the post of Accounts Officer w.e.f.the date 20.9.91 his immediate junior was promoted to the said post. The respondents shall comply with this order within ten days' from today. This order will not preclude the respondents from issuing orders of posting of the applicant subsequently or within the said period of ten days.

The request for interim relief is disposed of accordingly."

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17

3. The reply to the Misc.Petition as well as counter has also been filed on behalf of the respondents, submitting that the applicant's case for promotion as Accounts Officer from the post of Assistant Accounts Officer which he was earlier holding, was under active consideration of the respondents, and that the non-issue of the promotion order in respect of the applicant was due to the consideration of the vigilance aspect of his case, which the respondents would look into, before issuing the promotion order.

4. In the rejoinder filed on behalf of the applicant, a preliminary objection was raised that the counter was filed on behalf of the respondents by Sh.N.D.Arora, Assistant Director of Telecommunication(Legal Cell), Haryana Circle, Ambala, which the said officer was not authorised or competent to file. This objection was, however, later not pressed during the course of arguments.

5. After passing of the order dated 20.9.91, earlier referred to, the respondents issued order dated 3.10.91, promoting the applicant as Accounts Officer with effect from 11.6.91, in pursuance of the said order of the Tribunal. As such the grievance of the applicant was substantially satisfied, after issue of the order dated 3.10.91. However, the learned counsel of the applicant took exception to the contents of para 2 of the order dated 3.10.91(ibid), adding that as stated in the rejoinder, the respondents ought to have looked into the vigilance clearance, prior to the holding of the DPC meeting, and that after issuance of the order of applicant's promotion, the contents of para 2 thereof are totally irrelevant

18

and redundant. He, however, fairly conceded that the respondents would be within their powers to initiate action against the applicant, if permissible under the due process of law.

6. We have considered the above submissions and keeping in view that the order of promotion in respect of the applicant has since been issued, the objection regarding the contents of paragraph 2 of the order of promotion dated 3.10.91, as alluded to by the learned counsel for the applicant, to our mind, becomes merely academic. Needless to say that the respondents will be within their rights to initiate ^{any} /action against the applicant, if so called for, within the framework of rules.

The OA is disposed of accordingly, with no order, as to costs.

B.N. Dhoondiyal
(B.N.DHOUNDIYAL)
MEMBER(A)

T.S. Oberoi 15.5.92
(T.S.OBEROI)
MEMBER(J)