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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI .

1) O.A. No. 758/94

New Delhi: August 9th, 1995.

Amar Singh,
s/o Shri Jai Ram,
r/o 122, Type-II, Press Colony,
Mayapuri,
New Delhi-110 064.
By Shri D.R.Gupta, Advocate

.....Applicant
versus

1. Union of India through
Secretary,
Ministry of Urban Development,
Nirman Bhawan, New Delhi.
2. Director of Printing,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.
3. Manager,
Government of India Press,
Mayapuri,
New Delhi.
4. Shri Vijay Pal, Mechanic,
Mechanical Deptt.
Govt. of India Press,
Mayapuri,
New Delhi.

.....Respondents

By Shri Sant Singh for Pvt. respondent, and
Shri Madhav Panikar for the official respondents.

✓ 2) O.A. No. 2281/91

Shri Vijay Pal,
s/o Late Shri Ram Prasad,
r/o 64-B, Village Mochi Bagh,
Nanakpura, New Delhi -110021

.....Applicant

By Advocate Shri Sant Singh.

versus

1. Union of India through
Secretary,
Ministry of Urban Development,
Govt. of India,
Nirman Bhawan ,
New Delhi.
2. Manager,
Govt. of India Press,
Mayapuri Ring Road,
New Delhi - 1100 64.

.....Respondents

By Advocate Shri Madhav Panikar

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

HON'BLE DR. A.VEDAVALLI, MEMBER (J)

JUDGMENT

By Hon'ble Mr. S.R.Adige, Member (A)

As both these O.As involve common question of law and facts, they are being disposed of by this common order.

2. These cases have a chequered history. There is a post of Head Mechanic (Mechanical) in the GOI Press, Mayapuri, New Delhi. Consequent to the impending superannuation of the incumbent on that post Shri Ram Chander, unreserved category) w.e.f. 30.9.91, a DPC meeting was held on 24.9.91 and 25.9.91 to select a suitable and eligible candidate. According to the official respondents as per roster for reservation for selection posts, Point No.2 goes to an unreserved category, but in view of the carried forward Point No.1 for the SC community, the post in question was to have gone to an SC candidate. However, as the DPC did not find applicant in O.A.No.2281/91, Shri Vijay Pal (SC) who was one of the candidates fit for selection, the reserved point meant for SC candidates was carried forward for the subsequent year, but according to the respondents there was no eligible reserved candidate even in the third and fourth year. Eventually by order dated 19.10.92 (Annexure-R1 in O.A.No.2281/91) Shri Vijay Pal was promoted to that post with effect from even date but that order was subsequently kept in abeyance vide order dated 28.10.92 (Annexure-R2 in O.A.No.2281/91).

3. Meanwhile, it appears from the judgment dated 15.4.93 in O.A.No.2753/92 filed by Shri Amar Singh, who is also the applicant in O.A.No.758/94 presently before us, that although he had been promoted on regular basis as Head Mechanic (Mechanical)

vide order dated 1.10.91, by subsequent order dated 19.10.92 he was retrospectively reverted from that post w.e.f. 17.10.92. In that O.A. No.2753/92 Shri Amar Singh obtained an interim order for maintenance of the status quo and on the strength of that interim order continued as Head Mechanic (Mechanical). Applicant Vijay Pal was also impleaded in O.A.No.2753/92, and after hearing Amar Singh and Vijay Pal as well as the official respondents, the Tribunal by judgment dated 15.4.93 (Supra) disposed of the O.A. without going into the merits of the matter, by quashing Amar Singh's reversion order dated 1.10.91, but making it clear that it was open to the respondents to proceed to revert Amar Singh in accordance with law after giving him an opportunity of being heard.

4. Accordingly the official respondents issued Memo dated 20.12.93 (Annexure -III in O.A.No.2758/94) to show cause why he should not be reverted. Amar Singh filed his reply on 3.1.94 and also filed O.A.No.2704/93 against reversion which was disposed of by order dated 28.12.93 with a direction to the respondents to pass a speaking order on Amar Singh's representation. The official respondents by their office order dated 5.4.94 (Annexure-A1 in O.A.No.2758/94) have reverted Amar Singh from the post of Head Mechanic (Mechanical) w.e.f. 6.4.94 and the order states that it is in accordance with the advice tendered by DPAR & Law Ministry GOI. (We note however that this order dated 5.4.94 is not a reasoned

or speaking order, as it does not indicate the reasons why the respondents consider Amar Singh's reversion justified and does not discuss the points raised by the applicant in his representation dated 3.1.94.)

5. It is this order dated 5.4.94 which has now been impugned in O.A. No. 758/94 by applicant Amar Singh in which he has sought that this impugned order be set aside; his reversion from that post be declared arbitrary, illegal and violative of Articles 14 and 16 of the Constitution; and the promotion of Vijay Pal Singh applicant in O.A. No. 2281/91 be likewise set aside. On the other hand in O.A. No. 2281/91 applicant Vijay Pal Singh has sought for a direction that the respondents be restrained from filling up the post of Head Mechanic (Mechanical) and the applicant be considered for appointment to that post.

6. The basic contention of the applicant in O.A. No. 758/94 is that the post of Head Mechanic (Mechanical) in GOI Press Mayapuri, New Delhi is a single post in the cadre and a single post cannot be reserved, following the Hon'ble Supreme Court's judgment in Dr. Chakradhar Paswan Vs. State of Bihar-AIR 1988 SC 959 and a number of succeeding judgments. On the other hand, the official respondents in their reply to that O.A. deny that there is only one post of Head Mechanic (Mechanical) in the cadre and refer to the recruitment rules, according to which there are 16 posts of Head Mechanic (Mechanical) in the cadre of which 2 are in Delhi, and the Director of Printing is empowered to transfer employees from one Press to another under his control in the public interest, on compassionate grounds etc. It is also stated in the official respondents' reply

that single cadre posts are filled in accordance with DPAR's O.M. dated 29.4.75 according to which a roster system is to be followed. Respondent No.4 in the reply has also denied applicant Amar Singh's contention that the post of Head Mechanic (Mechanical) is an isolated/solitary and single cadre post. His contention is that the cadre of Head Mechanic (Mechanical) consists of more than one post and the roster point on which the post fell consequent to the retirement of Ram Chander w.e.f. 1.10.91 was a reserved point and accordingly he was rightly considered for promotion to that post and was in fact promoted on regular basis w.e.f. 19.10.92, and that order (which was subsequently kept in abeyance vide order dated 28.10.92) be upheld.

7. In O.A.No.2281/91 which had been filed prior to O.A.No.758/94 applicant Vijay Pal's contentions were the same, namely that the roster point on which the post fell consequent to Ram Chander's superannuation was a reserved point and the respondents were therefore rightly considering him for promotion to that post as they themselves had conceded in their reply.

8. We have heard learned counsel for the applicant as well as for the respondents in each of the two O.As. We have also perused the materials on record. As mentioned earlier the stand of the respondents has been that the post of Head Mechanic (Mechanical) which incidentally appears to have been redesignated as Head Mechanic (Printing and Binding) vide O.M. dated 19.10.93 is not a solitary/ Single cadre post, but a post of a layer cadre as would appear from the recruitment rules, and the Director of Printing is competent to transfer

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employees in their cadre from one press to another in the country. It has further been contended that even if it were a single cadre post, it would have to be filled in accordance with the reservation roster system outlined in DPAR's instructions dated 29.4.75. However, upon the Tribunal's direction to produce all the relevant records including the Roster Register, the official respondents have now filed an additional affidavit on 12.7.95 together with copies of the Roster and the seniority list. In this additional affidavit, it has been stated on oath that there is only one post of Head Mechanic (Mechanical) and promotion to this post is made on the basis of unitwise and not All India Selection, and likewise reservation roster is also maintained unitwise. Copies of the Roster as well as the seniority list filed with this additional affidavit, as also the copy of the Organisation Chart of the GOI Press Mayapuri as well as the Establishment Statement of that Press dated 1.3.93 are also on record from which it would appear that there is only one post of Head Mechanic (Mechanical) in the GOI Press Mayapuri, New Delhi.

9. We note that despite the Tribunal's clear directions dated 28.12.93 in O.A.No.2704/93 filed by Amar Singh to dispose of his representation by a speaking order the respondents' impugned order dated 5.4.94 disposing of his representation dated 3.1.94 is not a reasoned or speaking order. No reasons have been given why the respondents consider Amar Singh's reversion justified, and the points raised in the representation dated 3.1.94 have not been discussed. The observation contained in the impugned order that the Law Ministry has opined that the reversion of Amar Singh was justified,

is no substitute for discussing the applicant's representation point by point and recording detailed reasons for coming to a finding. There are also no materials to indicate whether the averments made in the additional affidavit dated 12.7.95 have been considered by the respondents before they passed the impugned order dated 5.4.94.

10. For the ^{1. contained in para 9 above} ~~above~~ reasons, the impugned order dated 5.4.94 cannot be sustained and is quashed and set aside. The matter is remanded back to the respondents for passing an order afresh on applicant Amar Singh's representation dated 3.1.94. This order should be a detailed, reasoned and speaking order and should be passed in accordance with law and after taking into account all the facts and circumstances of the case. Before orders are passed, the applicants in both the OAs, namely Amar Singh and Vijay Pal should be given an opportunity of being heard. This fresh order should also deal with and dispose of the respondents' order dated 28.10.92 keeping applicant Vijay Pal's promotion order dated 19.10.92 in abeyance. These directions should be implemented within four months from the date of receipt of a copy of this judgment. Till this fresh order is passed, the status quo as of this date (¹ 9.8.95) shall continue.

11. These two OAs are disposed of in terms of the directions given in paragraph 10 above. No costs.

12. Let copies of this order be placed in both the OAs.

(DR. A. VEDAVALLI)
MEMBER (J)

(S.R. ADIGE)
MEMBER (A)

Attested
Bimla Devi
(BIMLA DEVI)
S/o. Smt. Court Officer
2nd Additional Member
Central Administrative Tribunal
and Member, President House
Prakash Bhawan, Panchayat Bhawan
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