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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

Regn. No. OA-2388/91

Date of Decision: 08.01.1993

Shri Sunil Kumar Gupta Applicant

Versus

Union of India & Ors. Respondents

For the Applicant Shri G.D. Bhandari, Advocate

For the Respondents Shri M.C. Garg, Advocate

CORAM:

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

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

1. To be referred to the Reporters or not, *Yes*

JUDGEMENT

(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman (J))

The applicant, while working as a Deputy Superintendent, Grade II in the Tihar Jail, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:-

(i) To set aside and quash the impugned orders dated 21.8.1991 whereby his claim to the scale of Rs. 2275-3500 (Law Officer) and

payment of arrears has been rejected by the respondents;

(ii) to direct the respondents to grant the said scale to him from 7.10.1983, when he was designated as Law Officer, or alternatively, at least from 8.7.1986, when the post of Law Officer was formally created; and

(iii) to make payment of difference of arrears of pay and allowances consequent to the grant of the aforesaid pay-scale and refixation of his pay with interest at the rate of 18 per cent per annum.

2. We have gone through the records of the case and have heard the learned counsel for both the parties. The applicant was appointed as Assistant Superintendent, Central Jail, Tihar, on 8.5.1981. He was promoted as Deputy Superintendent, Grade II on 17.10.1986. According to him, ever since his appointment in 1981, he has been not only associated with the legal work but has been shouldering the responsibilities of the post of Law Officer. He has been attending to various writ petitions in the Delhi High Court from the undertrials and the Jail staff. He has produced the appreciation letters received by him from his superiors as also the cash awards and commendation certificates issued to him in token of his good work. The applicant has relied upon the Office Order dated 25.6.1985 issued by the Office of the Superintendent, Central Jail, Tihar, in which he

has been shown by the designation of Law Officer with the additional duties of looking after the work relating to Sentence Revising Board.

3. The applicant has been handling the legal work and shouldering the responsibilities of Law Officer. He is a Law Graduate. The Ministry of Home Affairs have issued sanction for the creation of the post of Law Officer in the scale of pay of Rs.840-1200 by their letter dated 27/30.6.1986. The applicant has, however, not been appointed to the said post, nor has he been given the said pay-scale. The representations made by him have not yielded any results.

4. The respondents have stated in their counter-affidavit that though the post of Law Officer in the Central Jail, Tihar, has been created in July, 1986, the recruitment rules have not been finalised and no posting has been made against the said post. According to them, the applicant has been looking after the duties assigned to him. The recruitment rules for the post of Law Officer are pending with the Delhi Administration for issuance of formal order in consultation with the U.P.S.C. and in the absence of the recruitment rules, the post of Law Officer cannot be filled.

5. The Supreme Court has held that opportunity for advancement is a requirement for the progress of any organisation. It is the duty of every Management to provide realistic opportunities

for promising employees to move forward (vide Raghunath Prasad Singh Vs. State of Bihar, AIR 1988 SC 1033 and CSIR Vs. K.G.S. Shatt, AIR 1989 SC 1972). Admittedly, there is no channel of promotion for the persons belonging to the category of Deputy Supdt., Gr.II. The next higher post of Dy. Supdt., Gr.I is to be filled by the members of the DANICS on transfer or by deputation. Expert Committees like Justice A.N. Mulla Committee have recommended making of suitable provision in the recruitment rules for the Jail staff so as to ensure that they get three promotions during their career. In the instant case, the respondents have already sanctioned a post of Law Officer and the same is lying vacant for over six years for want of finalisation of recruitment rules. In the meanwhile, the applicant has been looking after the legal work of the Central Jail and has received appreciation, commendation certificates, and cash awards for his good work.

6. In the conspectus of the facts and circumstances of the case, the respondents are directed to consider the question of making adequate promotional avenues to the officers in the category of Dy. Supdt., Grade II by making a provision in the recruitment rules for promotion to the next higher grade ~~as prescribed period of a~~ after completion of the service in the said grade. ~~as~~ ~~xxxxxxxxxxxxxx~~ They shall do the needful in the matter expeditiously and preferably within a period of four months from ~~as~~

the date of communication of this order. The respondents are further directed to finalise the recruitment rules for the post of Law Officer which has been sanctioned for the Central Jail, Tihar. In case, the applicant fulfills the qualifications and experience prescribed in the draft recruitment rules, the respondents shall consider appointing him to the said post on an ad hoc basis till regular appointment is made in accordance with the recruitment rules as and when the same is finalised. In that event, he would also be entitled to the scale of pay of the post of Law Officer. The application is disposed of on the above lines. There will be no order as to costs.

B.N. Dholiwal
(B.N. Dholiwal) 8/1/93
Administrative Member

B.N. Dholiwal
(P.K. Kartha)
Vice-Chairman(Judl.)

8/1/93