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Central Administrative Tribunal
Principal Bench: New Delhi

...
OA No. 2312/92

New Delhi, this the 8th day of October, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Shri K.Kuthukumar, Member (A)

Satvir Singh,
s/o Shri Manohar Lal,
r/o H.No. 28, Village Singhola,
P.O. Tikri Khurd,
Delhi.

...Applicant

(By Advocate: Shri Mohd Nayummudin proxy for
Shri Ashok Aggarwal)

Versus

1. Delhi Administration through
Chief Secretary,
5 Alipur Road,
Delhi.
2. The Inspector General of Prisons,
Delhi, Central Jail, Tihar,
New Delhi.

...Respondents

(By Advocate)

O R D E R (ORAL)
[Hon'ble Dr. Jose P. Verghese, Vice-Chairman (J)]

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This OA has been filed seeking a direction to the respondents to relieve the applicant from the post of Warder to take up the post of Lab Assistant in the pay scale of Rs. 1200-2040/- from the date he was promoted by an order dated 5.3.1991. He is also seeking a declaration from this court that he be deemed to have been promoted to the said post w.e.f. 5.3.1991. Annexure A to the OA shows that the petitioner has been selected to the post on the recommendation of the Departmental Promotion Committee and after obtaining requisite approval of the competent authority, he was placed on a purely temporary and on ad hoc basis, since a final decision in SLP No. 1611/88 was not forthcoming. Otherwise his promotion to the post of

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Lab. Assistant in the pay scale of Rs. 1200-2040/- is a substantive appointment but for the final decision of the said S.L.P.

After about a month by an order dated 3.4.1991 respondents issued a Memorandum stating that the petitioner has rented out his quarter No. D-28, Central Jail to another colleague of his, namely Sh. Satbir Singh, Warder Roll No. 315 and on the basis of the said Memorandum a chargesheet was issued to him on 4.6.1991.

After notice, the respondents filed the reply and stated that the petitioner was not relieved due to the pendency of the said vigilance case.

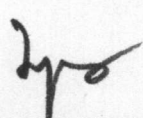
We have perused the record and the chargesheet filed against the petitioner and prima-facie we find that the quarter in question was only permitted to be occupied by his own colleague who is also a government servant, with oral intimation to the concerned authorities and as such there is no subletting of the quarter in the strict sense. Since the enquiry is pending we do not want our observation be taken as any comment on the merit of the case. In any event a subsequent Memorandum and issuance of chargesheet after the petitioner has been duly promoted, could not have any bearing on the promotion order passed prior to issuance of Memorandum as well as Chargesheet.

None appears on behalf of the respondents today. We have perused the record and find that there is substance in the submission made on behalf of the petitioner namely that the promotion order passed on 5.3.1991 was a substantive appointment and a Memorandum as


well as the Chargesheet issued subsequently could not have been a reason for not promoting the petitioner or permitting him to join the said post. In the circumstances, we allow this OA and direct the respondents to treat the petitioner as a Lab Assistant w.e.f. 5.3.1991 in the scale of Rs. 1200-2040. The respondents are at liberty to proceed with enquiry in accordance with the rules and as and when the appropriate orders are passed, they are at liberty to enforce the same against the petitioner. The petitioner will be entitled to all consequential benefits such as fixation of seniority, subsequent promotions, if any, etc. but in the interest of justice we allow only 50% of the arrears to be paid to the petitioner.

Petitioner shall be relieved from the office forthwith to enable him to join the assigned/promoted post as per the order dated 5.3.1991.

In view of the circumstances, this OA is allowed with no order as to costs.


(K. Muthukumar)
Member (A)

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(Dr. Jose P. Verghese)
Vice-Chairman (J)