

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1050/93
T.A. No.

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DATE OF DECISION 21-9-1993

Shri KS Chaubey	Petitioner
Shri ML Sharma	Advocate for the Petitioner(s)
Versus	
Union of India	Respondent
Shri Rajesh	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. **N.V.Krishnan, Vice Chairman (A)**
The Hon'ble Mr. **B.S.Hegde, Member (J)**

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

**ORAL
JUDGEMENT**

(Hon'ble Shri N.V.Krishnan, Vice Chairman (A)

The applicant, senior most clerk in the grade 950-1300, was put to work as senior clerk in the grade of Rs.1200-2040 from 1-2-93 vice Sita Ram Gupta senior clerk put to work by the same order as Head Clerk vide order dated 3-2-93 of the Dy.F.A. (An.A-3). He requested the Dy.C.P.O. H.Qrs. to notify formal orders in respect of these arrangements. Accordingly by the An.A-4 notice dated 11-2-93 the Dy.C.P.O, the 2nd respondent, appointed the applicant to officiate as senior clerk with immediate effect. The applicant assumed charge on 12-2-93 in terms of An.A-4 order vide An.A-5.

2. However, by a subsequent notice dated 18-2-93 (An.A-1) the 2nd respondent cancelled his earlier order dated 11-2-93 (An.A-4) ordering the promotion of the applicant as a senior clerk.

3. Aggrieved by the An.A-1 order, this O.A. was filed.

4. In response to the notice, the respondents have filed a reply stating that for some reason, the post of Head Clerk could not be filled up and, therefore, the consequential vacancy of senior clerk did not arise and hence the An.A-1 order had to be passed. In pursuance of the impugned An.A-1 order, the applicant is working on a lower post of clerk in the grade of Rs.950-1300.

5. The applicant filed a rejoinder contending that no reasons were given in the An.A-1 order for cancellation of the earlier order dated 11-2-93 (An.A-4) promoting him as senior clerk.

6. When the case came up for final hearing, the ld. counsel for the respondent pointed out that the applicant himself has produced the An.9 order of the respondents dated 18-6-93 by which Sita Ram Gupta senior clerk was promoted as Head Clerk with immediate effect. This proves the contention of the respondents that, earlier, there was a hitch in giving Sita Ram Gupta a promotion and hence, the order dated 3-2-93 of the Dy.F.A, (An.A-3) in respect of Sita Ram Gupta, was not confirmed by the higher authorities. Therefore, the post of senior clerk held by Sita Ram Gupta did not fall vacant. Hence, the applicant could not be continued against a post of senior clerk. Therefore, An.A-1 order had to be issued.

7. We have heard the parties. We are satisfied with the explanation given by the respondents. The An.A-10 filed with the rejoinder corroborates the stand of the respondents, because Sita Ram Gupta has prayed for giving effect to his promotion ordered by the An.A-9 order with effect from 1-2-93 as proposed

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earlier in An.A-3 by the Dy.F.A.

8. In the circumstances, we are satisfied with the respondents' explanation.

9. We notice that a senior clerk Jetha Nand has been allowed to hold additional charge of the post of Sita Ram Gupta also vide An.A-9. It is thus clear that the post of senior clerk vacated by Sita Ram Gupta has not been regularly filled up. The 1d. counsel for the respondents submits that in the vacancy arising out of Sita Ram Gupta's promotion the case of the applicant will be considered for promotion.

10. In view of this ~~matter~~ ^{submission} we are satisfied that the applicant cannot have any grievance and, therefore, we do not find any merit in this application. However, it will be only proper to issue directions to the respondents to consider the case of the applicant for promotion as senior clerk in the vacancy arising out of the promotion of Sita Ram Gupta as Head Clerk by the An.A-9 order within a period of one month from the date of receipt of this order. We order accordingly. The application is disposed of with the aforesaid directions.

B.S.Hegde
(B.S.HEGDE)
Member (J).

N.V.Krishnan
21.9.93
(N.V.KRISHNAN)
Vice Chairman(A)