

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 30th day of January 1996.

Original Application no. 52 of 1996.

Hon'ble Mr. S. Dayal, Administrative Member.

Ashok Kumar Srivastava, S/o Shri P.L. Srivastava, R/o
7 Stanly Road, Civil Lines, Allahabad.

... Applicant.

C/A Shri O.P. Gupta

Versus

1. Commissioner of Income Tax-Allahabad.
2. Union of India, through Secretary Ministry of Finance
Government of India, New Delhi.

... Respondents.

C/R Shri Amit Stholekar.

O R D E R

Hon'ble Mr. S. Dayal, Member-A.

Shri O.P. Gupta learned counsel for the applicant. Shri Amit Stholekar has appeared on behalf of the respondents and mentioned that he has received instructions to appear in this case.

2. Shri O.P. Gupta has ~~extremely~~ ^{extensively} argued ^{about} ~~on~~ interim stay on the order of respondent no. 1 dated 20.12.95 annexed as annexure A-5. By this order the applicant has been transferred from the post of Chaukidar in the office of Income Tax Commissioner to the office of Additional Commiss-

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Assessment,
ioner Assessment (Special) Allahabad.

3. Learned counsel for the applicant has mentioned in paragraph 4.3. of his application that the applicant was continuously working as typist which was accepted in the judgement dated 29.09.94 and also continued working as a typist. He has alleged that his transfer has been motivated by malafide because ^{by} transferring the applicant the control is shifted from one officer to another officer, who may also have been ^{impleaded} ~~placed~~ as party in the contempt application already pending. He has mentioned that the applicant should have been considered for promotion against 5% quota to be filled up on the basis of seniority. Since the applicant has been granted seniority from 20.10.83 he should have been promoted to grade 'C'.

4. Shri Amit Sthelekar learned counsel for the respondents mentioned that the order in OA. 928 of 1990 gave seniority in group 'D' to the applicant w.e.f. 1983. He has also mentioned that the administrative control still remains that of the Commissioner Income Tax who is respondent no. 1 in the present case and who ^{has} passed the order of transfer. He has also stated that the transfer is a local transfer and does not disturb the applicant from one place to another.

5. The direction of this court in OA 928/90 was from giving seniority to the applicant in group 'D' from 1983 onwards. Right of the applicant to hold group 'C' post

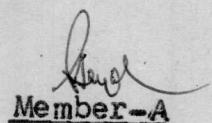
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was not upheld in that judgement. Albeit the applicant was allowed arrears for the period he worked on the post of typist up to the date of judgement.

6. The transfer of the applicant does not in any way affect the contempt application still pending against the respondent no. 1. It is ^{not} the case of the applicant that ~~some~~ ^{any} person junior to him has been promoted against 5% vacancy reserved for promotion by virtue of seniority.

7. Under these circumstances I find no merit in the present case and reject the application in limine.

8. There shall be no order as to costs.


Member-A

/pc/