

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1047 of 1997

alongwith

Original Application No. 1390 of 1997

Allahabad this the 05th day of June, 2003

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr. D.R. Tewari, Member(A)

O.A.No.1047/97

V.D. Chaturvedi S/o Presently posted as ad hoc
Assistant Director(A&C) (Handicrafts)Service Centre,
Varanasi.

Applicant

By Advocate Shri B.N. Chaturvedi

Versus

1. Union of India through Secretary, Ministry of Textiles, Udyog Bhawan, New Delhi.
2. The Development Commissioner(Handicrafts), West Block No.VII, R.K. Puram, New Delhi-66.
3. Addl. Development Commissioner(Handicrafts)West Block No.VII, R.K. Puram, New Delhi-66.

Respondents

By Advocate Shri Amit Sthalekar

O.A.No.1390/97

V.D. Chaturvedi, S/o Shri Kashi Nath Chaturvedi,
Presently posted as Ad hoc Assistant Director(A&C)
Handicraft Service Centre, Varanasi.

Applicant

By Advocate Shri B.N. Chaturvedi

Versus

1. Union of India through its Secretary, Ministry of Textile, Udyog Bhawan, New Delhi.

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2. The Development Commissioner(Handicrafts)West Block No.VII, R.K. Puram, New Delhi.
3. Addl. Development Commissioner(Handicraft)West Block No.VII, R.K. Puram, New Delhi.
4. A.K. Malhotra R/o E-64, Moti Nagar, New Delhi presently posted at Carpet Weaving Training Scheme Centre, Jammu.

Respondents

By Advocate Shri Amit Sthalekar

O R D E R (Oral)

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Both these O.As have been filed by the same applicant and question of law and facts involved are similar. Both the O.As can be disposed of finally by a common order.

O.A.No. 1047/97

In this O.A., applicant has prayed for a direction to the respondents to finalise the tentative seniority list published on 15.03.96 first by deciding the objections contained in the representation of the applicant prior to holding the D.P.C. for promotion of Assistant Director(A&C). He has also prayed to consider the case of the applicant while holding the D.P.C. for promotion in question. Copy of the order dated 15.03.1996 has been filed as annexure-2, from perusal of which it appears that the tentative seniority list of Carpet Training Officers/^{working} under Carpet Weaving Training Scheme of the Office of Development Commissioner (Handicrafts) in all States/U.Ts was circulated, inviting objection by 31.03.1996. Copy of this tentative seniority list has been filed alongwith letter. In this list, name of the applicant has been shown at serial no.8. The list includes only 26 names.

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O.A.No.1390/97

In this OA.applicant has prayed to quash the declaration of promotion dated 19.11.1997 of Shri A.K. Malhotra and others which, it is stated, has been issued contrary to stay order dated 07.10.97 and para-19 of the Judgment dt.11.4.1997 of the Principal Bench of ^{the} Tribunal. The impugned promotion order dated 19.11.1997 has been filed as annexure-1. From perusal of which, it is clear that Shri A.K. Malhotra has been shown at serial no.2. He was appointed as regular Asstt. Director(A&C) on 01.03.1981 on transfer. It is admitted case of the applicant that in 1985 Seniority List Shri A.K. Malhotra was shown senior to the applicant. The validity of seniority list has been upheld by this Tribunal by Judgment dated 28.08.1992 passed in T.A.No. 138/87 and T.A.No.232/87. Following the Judgment of this Tribunal, the Principal Bench passed the order dated 11.04.1997(annexure-1) and gave following directions;

"The following directions are, therefore, being issued:-

- (i) The decision of the Allahabad Bench, which has become final, shall be implemented fully in accordance with directions given by the said court and the selection or promotion will have to be made afresh on the basis of the final seniority list of 1985;
- (ii) The review DPC held on 1994 purportedly in compliance with the Allahabad Bench decision is wrong since the said DPC has been held in accordance with the final seniority list of 1985 but it has been wrongly held against all vacancies, including those arose prior to 1985, as on 1985. Therefore, the purpose of the review DPC wrongly held in the year 1994 against vacancies that arose prior to 1985 but held as on 1985 and is, therefore, to be ignored being contrary to rules and a fresh

review DPC shall be conducted by the respondents for promotion or selection of all the concerned incumbents.

(iii) A fresh review DPC, therefore, shall be held on the basis of final seniority list of 1985 but in accordance with year wise availability of vacancies and the records of each incumbent shall be perused in accordance with availability of the vacancy of each year. It is made clear that in order to see the records of the available incumbents for the year 1980, it shall not be proper for the respondents to consider their suitability as on 1985.

(iv) This review DPC shall be held within three months hereafter and review the selection or promotion of all the incumbents, presently occupying the seniority list of 1985, that is to say, excluding those persons who are already retired or promoted, for the purpose of considering the inter-se position in the select panel.

(v) In the event any change in the position in the select panel is found by the review DPC, all the consequential benefits arising out of such finding of the review DPC shall be available to all the incumbents, not only the petitioner in this case but also to all similarly placed employees out of the same seniority list.

With these directions, this Original Application is disposed of."

4. The orders passed by this Bench as well as by Principal Bench have become final between the parties. It is not open for the applicant to question the seniority and claim that the applicant was senior to respondent no. 4 in any manner. In the circumstances, in our opinion, if the applicant had any grievance against the order dated 11.04.1997, as expressed in the O.A., he should have challenged the same before the appropriate forum.

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5. In the facts and circumstances mentioned above, we do not find any merit in both the O.A.s, which are dismissed accordingly. No order as to costs.

Sd
AM

Sd
VC

bph
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