

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.1267 of 2001.

Allahabad this the 10th day of July 2003.

Hon'ble Maj Gen KK Srivastava, Member-A.

Hon'ble Mr.A.K. Bhatnagar, Member-J.

Sri Kamala Kant Singh Kushwaha
S/o Vishva Nath Kushwaha,
Government Opium and Alkaloid Works,
undertaking Ghazipur (U.P)

.....Applicant.

(By Advocate: Sri H.K. Yadav)

Versus.

1. The Union of India
through Secretary
Ministry of Labour,
New Delhi.
2. The Chief Controller,
Government Opium and Alkaloid Factories,
11/77 The Mall, Morar, Gwalior (M.P)
3. The General Manager,
Government Opium and Alkaloid Works,
Undertaking Ghazipur. U.P.

.....Respondents.

(By Advocate: Sri R.C. Joshi)

O_R_D_E_R

(By Hon'ble Maj Gen KK Srivastava, Member-A)

In this O.A. filed under section of 19 of
Administrative Tribunals Act 1985, the applicant has
prayed for direction to respondents to promote the
applicant according to his seniority without any break
or interference of his seniority.

2. The facts, in short, giving rise to the present
controversy are that the applicant was appointed as
Engine Driver in respondent's establishment on 01.01.1976



When applicant found that his juniors were promoted, ignoring claim of the applicant, ^h he filed representation for his promotion. The applicant was ordered to be promoted as Penman vide order dated 24.01.2000 counting the seniority of the applicant from 01.01.1976. Applicant instead of joining on promotion post sought various clarifications ^h regarding his seniority etc.

Since no clarification was given by the ^{in respondents} applicant ~~nor~~ ^h ~~he~~ ^{the applicant did not join} ~~joined~~ ^h the promotion post, applicant filed O.A. No.1235 of 2000 which was decided by order dated 09.11.2000 with direction to the respondents to decide the representation of the applicant by a speaking order.

3. Sri H.K. Yadav learned counsel for the applicant submitted that from perusal of Annexure 8, which is letter dated 23.01.2001, it would reveal that applicant was debarred from promotion for one year w.e.f. 8.3.2000. The period of one year expired on 07.03.2001. Grievance of the applicant is that more than two years have elapsed ^{despite yet} ~~despite~~ respondents have not considered the case of the applicant for promotion as Penman. This action of respondents is totally illegal.

4. Resisting the claim of the applicant, Sri G.R. Gupta learned counsel for the respondents submitted that applicant did not join the promotion post as ordered vide memo dated 24.01.2000. Since applicant himself did



not join, the case of the applicant does not ^{merit} ~~met~~ any consideration. Sri G.R. Gupta learned counsel for the respondents further submitted that case of the applicant shall be considered for promotion as per rules.

5. We have heard learned counsel for the parties, considered their submissions and perused records.

6. Admittedly, applicant did not join the promotion posts as ordered vide memo dated 24.01.2000. The grounds ^{in the} taken by the applicant ^{is} that he did not join ^{the} post as he sought for certain clarification, from the respondents. Since applicant's doubts, were not cleared, he did not join the post. In the Circumstances, respondents have committed no error of law in debarring the applicant for promotion for one year w.e.f. 08-03-2000, as stated in the letter dated 23.01.2001. We ^{however} ~~also did~~ ^{do} not find much of the substance in the submissions of learned counsel for the respondents that the applicant did not join the promotion posts and his case will be considered as per rules. While we certainly endorse the decision of the respondents in debarring the applicant ~~from~~ promotion for one year w.e.f. 08.03.2000, we do not find any justification in the action of the respondents not to take appropriate action to promote the applicant after expiry of one year i.e. 07.03.2001. Now more than





two years have elapsed and yet the promotion order in respect of the applicant has not been issued.

7. In the facts and circumstances, in our considered opinion, the interest of justice shall be met by giving direction to respondent No.3 to take appropriate action to consider the case of the applicant for promotion to the next post i.e. Penman within specified time.

8. The O.A. is disposed of with a direction to respondent No.3 to consider the case of the applicant for promotion ^{to the next post} and pass the appropriate order as per law within a period of three months from the date of communication of this order.

No order as to costs.


Member-J.


Member-A.

Manish/-