

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 4 OF 2004  
ALLAHABAD THIS THE 11TH DAY OF JANUARY, 2005

HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN  
HON'BLE MR. S. C. CHAUBE, MEMBER-A

Qazi Naseem Ahmad,  
aged about 52 years,  
S/o Shri Qazi Jamiluddin,  
R/o Mohalla Rajde pur,  
Ghazipur.

. . . . .Petitioner

( By Advocate Shri Rakesh Verma )

Versus

1. Union of India,  
through Secretary,  
Ministry of Finance (Department of Revenue),  
North Block, New Delhi.
2. Chief Controller of Factories,  
Saraswati House-27, Nehru Place,  
New Delhi.
3. Narcotics Commissioner of India,  
19, The Mall, Morar, Gwalior (M.P.).
4. General Manager,  
Govt, Opium & Alk. Works,  
Ghazipur.

. . . . .Respondents

( By Advocate Shri G.R. Gupta )

O R D E R

HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN

Shri Rakesh Verma, counsel for the applicant and  
Shri G.R. Gupta, counsel for the respondents. Heard



counsel for the parties and perused the pleadings.

2. While the applicant was working as Upper Division Clerk in the office of the General Manager, Opium Factory, Ghazipur, he was considered for promotion alongwith other candidates to the post of Inspector in the pay scale of Rs.1400-40-1800-EB-50-2300. The applicant and seven others including one Barkho Ram were promoted vide Establishment Order No.17/95 dated 06.09.1995 in the pay scale of Rs.1400-40-1800-EB-50-2300 placed on probation for a period of two years from the date of their joining as Inspector. The probation was liable to be extended if the performance of the promotees during the period of probation "is not found to be satisfactory". It appears, that certain representations were made whereupon a review D.P.C. was held on 02.09.1998 and 16.10.1998 to review the decision taken by the D.P.C. in 1991-92, 1992-93, 1993-94, 1994-95, 1995-96 and 1996-97. In the review D.P.C. also the promotion of the applicant as per decision of the D.P.C. 1995-96 was maintained. However, Barkho Ram and four others who were earlier promoted by the D.P.C. in 1995-96 come to be reverted with immediate effect vide establishment order no.27/98 (Annexure-10). Barkho Ram challenged his reversion before the Principal Bench of the Central Administrative Tribunal. The reversion of Barkho Ram was made on the ground that certain instructions including the instructions dated 24.03.1992 which were kept in abeyance were followed by the D.P.C. The O.A. was dismissed, whereupon he instituted a writ petition bearing C.W.P.





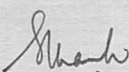
No.6826/1999 in the Hon'ble High Court of Delhi. The Hon'ble Delhi High Court considered the scope, ambit and jurisdiction of the Review Departmental Promotion Committee and held that even if the instructions dated 24.03.1992 issued by the respondents had wrongly been followed, "the same by itself could not have been a ground for holding the review DPC unless and untill it was clearly demonstrated that thereby a right of the candidate has wrongly been denied." The Delhi High Court also noted the fact that for the purpose of the promotion not only a written examination was held but also physical test and oral interview had taken place and, therefore, only because the purported directions of the Ministry dated 24.03.1992 were followed by the DPC 1995-96 though the directions were kept in abeyance, that by itself could not have been a ground for holding a review DPC unless, as indicated herein before, the same has resulted in-justice. The writ petition was accordingly allowed and the letter dated 30.10.1998 whereby Barkho Ram the petitioner therein was reverted came to be set aside by the Hon'ble Delhi High Court and the petitioner was held entitled to consequential benefits. In the present case, also the applicant has been reverted pursuant to a review DPC held on 2002-03 on the self same ground. The stand taken by the respondents cannot be sustained in view of the decision of the Hon'ble Delhi High Court referred to above.




3. Learned counsel for the respondents, however, placed reliance on the judgment of Jabalpur Bench of the Central Administrative Tribunal in the case of M.L. Prajapati Vs. U.O.I. and Ors. who was also reverted pursuant to the Establishment order no.29/03 in view of the review DPC held in the year 2002-03. We are of the view that the decision taken by the Delhi High Court cannot be ignored merely because the revision of M.L. Prajapati pursuant to the decision taken by the review DPC 2002-03 has been maintained by the Central Administrative Tribunal Bench at Jabalpur. In the decision of the Delhi High Court it was clearly held that merely because the instructions which were kept in abeyance were followed was not a ground of holding the review DPC and further that when a person was promoted and had worked for a long time on that post, acquires a right to hold the said post. Unless and until there exists very strong and cogent reasons, he should not be reverted therefrom for no fault on his part. The High Court decision will prevail.

3. Accordingly, the O.A. succeeds and is allowed. The Establishment order no.29/03 dated 23.12.2003 in so far as it relates to the applicant is set aside. The applicant is held entitled to all consequential benefits.

4. The parties are directed to bear their own costs.

  
Member-A

  
Vice-Chairman

\* Connected Vide  
Order dated 18-5-05  
V.C.  
18/5