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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

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Original Application No. 727 of 1986

K.C. Malviya Applicant

Versus

Union of India through Sr. Supdt.R.M.S.
Allahabad Division Allahabad.

. Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member Administrative.

(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

The applicant has completed sixteen years of service on 1.8.1984 and as such he claimed time bound promotion on 1.8.1984 in pursuance of the scheme issued by the Indian Post & Telegraph Department. In the said scheme of promotions provided following things also.

- (i) ~~the case~~ "In the case of the officials included in the Annexure IV of this Office Memo No. STA/21-XA/TBA/84/6 dt. 19.3.1984 and 19.4.1984 whose cases could not be considered for want of their complete CR files and have been adjudged fit now from their original due dates.
- (ii) In the case of officials against whom disciplinary cases were pending and such cases have been decided in their favour they will get the benefit of next Higher scale w.e.f. 30.11.1983 or their original due dates as case may be except that in cases where any punishment was imposed the benefit will be admissible only with effect from the date of issue of this Memo or on the expiry of currency of punishment whichever is later.
- (iii) In case of officials who complete 16 years service from 31.3.1984 to 30.3.1985 w.e.f. the date following the date on which they complete 16 years service. In case of those officials whose cases were not submitted by the Divisional Heads earlier will also get next higher scale from their original due dates."

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When the department did not give one time promotion, which was given to the 1st person with effect from 1.8.1984 and the promotion was not given to the applicant and as such the disciplinary proceedings in respect of a loss of insurance cover for three thousands of rupees are going on against the applicant. The said proceedings dragged on and it was only on 7th of February, 1985 the disciplinary authority after coming to conclusion that of course insurance cover undoubtedly was lost but the entire responsibility was passed on the head of the applicant, passed an order with holding his increment for a period of six months and the applicant was ~~given~~ given actual promotion under the said time bound scheme with effect from 1.2.1986, though he was given promotion with effect of the date as provided in the scheme his seniority was not to affected. On behalf of the applicant it has been contended that only a disciplinary proceedings can not stand in a way in the matter of promotion and in this connection reference has been made to the notification issued by the department of personnel and A.R. and Memo No. 220/11/1-66 established on 16.2.1979 which was re-iterated in the notification dated 19.5.1984 (No. 35/9/34-SPB-II, but on behalf of the respondents it is contended that the applicant has claimed his promotion under the time bound scheme it is in terms and conditions of time bound scheme alone, his case can be considered, and that the applicant is not entitled to benefit from the same. It is true that the disciplinary proceedings of this minor punishment dragged on and the applicant's promotion was delayed and the applicant's name also figured in the said document dated 4.12.1984, which was issued by the Indian Post & Telegraph department in respect of the promotion. In the said document it was also mentioned that

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the cases of the officials mentioned in Annexure-2 will be decided on conclusion of the disciplinary proceedings pending against it. The applicant's name also figured in the same. But that as required in the paragraph 6, no reference was made to the department regarding the pendency of the disciplinary proceedings and it was decided earlier. Obviously the applicant was on the minor punishment, the increment has been given late and his seniority has not been affected.

2. The questions which arise, the disciplinary proceedings lingered on, may be not ~~due to~~ ^{due to} any default of the applicant, and the applicant can not be made to lose his promotion, which is to begin only after six months of the expiry of the period on 1.8.1984 and the matter of the applicant has been reported to the department as required in para 6, the department who have been at liberty to pay the same, instead of taking a decision ^{postponed it} to consider the case of the applicant after the disciplinary proceedings.

3. The applicant's case has been considered by the department to give him the notional promotion from some other date and actual promotion and the benefit of the said scale could have been postponed only for a six months and not more than that period. Accordingly, we direct the department to reconsider the position and dispose of the matter within a period of two weeks taking into consideration that only minor penalty was avoided to the applicant without future effect. No order as to the cost.

Member (A)

Vice-Chairman.

Allahabad dated 18 December, 1991.

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