

CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH, ALLAHABAD

A2/2

....  
Registration T.A. No. 122 of 1986

Sohan Lal ....

Plaintiff/Applicant

vs

Union of India and ors... Defendants/Respondents

Hon' Mr K. Obayya, A.M.

Hon' Mr J.P. Sharma, J.M.

The plaintiff filed a civil suit bearing original suit No. 146 of 1984 in the Court of Munsif, Ghaziabad, against the Union of India and also impleading private respondent Koleshwar Prasad a scheduled caste candidate.

2. The plaintiff contended that Kuleshwar Prasad has been given wrong channel of promotion to the post of Senior Clerk and as such, he being scheduled caste candidate, has taken a march <sup>over him</sup> according to roster system for the said post of Senior Clerk. The applicant prayed the relief for his promotion to the post of Senior Clerk besides, claiming damages in lump-sum and monthly, and also costs of present suit. The respondents 1 and 2 contended that Kuleshwar Prasad (Respondent no.3) has been duly promoted according to extant rules and being a scheduled caste candidate and the post being reserved for scheduled caste in roster system, so he has been rightly promoted.

3. In view of Administrative Tribunals' Act, 1985, the suit has been transferred to the Allahabad Bench of Central Administrative Tribunal for disposal.

4. The learned counsel Shri Z.K. Hassan holding brief of Shri R.K. Jain, learned counsel for the plaintiff/applicant, Shri Prashant Mathur, learned counsel for the Defendants/Respondents 1 and 2 and Shri Hanuman

Upadhyay, learned counsel for the respondent No.3 appear. While going through the history of the case and going for the reliefs claimed in the original suit, it appears that the suit itself has become infructuous. Regarding relief No.1, in as much as, a statement at the bar has been given by the learned counsel for the respondents 1 and 2, on the instructions of Departmental Representative Shri Dharampal, Senior Clerk in Signal Workshop, Ghaziabad, that the applicant Sohanlal has since been promoted and working as Senior Clerk. The learned counsel for respondent no.3 also has drawn our attention to a seniority list filed on record, where Sohan Lal has been shown in the last at sl.No. 16 as Senior Clerk, but, in this the date of promotion has been shown as July, 1983, while, the plaintiff's allegation is that the plaintiff/applicant was reverted again in February, 1984. Be whatever it may, accepting the statement at the bar of learned counsel for the respondents 1 and 2 and on the basis of the record, it is evident that the plaintiff/applicant has since been promoted to the post of Senior Clerk and so, no mandamus can be issued to the defendants/respondents 1 and 2 in that regard. However, it is made clear that on the basis of statement <sup>1</sup> ~~the~~ <sup>aforesaid</sup> above observations have been made.

5. As regards remaining reliefs, we do not find a fit case, where damages can be awarded without any cogent and convincing evidence regarding administrative lapses or laches on the part of respondents 1 and 2, in not promoting the applicant/plaintiff as desired by him.

6. The suit of the plaintiff/applicant, therefore,

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is disposed of accordingly as infructuous and  
this transferred application is decided in the  
manner that the plaintiff/applicant has already  
been granted relief claimed for and the application/  
suit has become infructuous and is dismissed with  
costs on parties.

J. Mane  
MEMBER (J)

(sns)

April 18, 1990

Allahabad.

R. Bhargave  
MEMBER (A)