

A2  
1

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD

Reg. T.A.No. 128/86

Union of India and others... ..Applicants

Versus

Balak Ram... ..Respondent

Hon'ble Mr. Justice U.C.Srivastava, V.C.  
Hon'ble Mr. K. Chayya, A.M.

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

This is a transferred case under section 29 of the Administrative Tribunal Act.

2. Balak Ram the respondent filed a suit in the court of Munsif for declaration that the order dated 20.8.82 by which he was not promoted was illegal and that it was he who was entitled to promotion from the date the said Tota Ram has been promoted. Against the said order the Union of India filed an appeal before the District Judge which has been transferred to this Tribunal for adjudication.

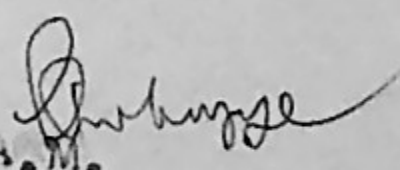
3. It appears that Balak Ram the respondent has been working in Ordinance Factory, Shahjahanpur from 1.7.78 while the respondent Tota Ram was appointed on 1.6.79. In the seniority list the respondent Balak Ram was senior to Tota Ram. The post of Supervisor 'B/NT ( Stores) which was the next post for selection took place and the criteria for selection was seniority cum merit that is the performance to the individual on the post as reported by his superiors. The departmental promotion committee adjusted the said Tota Ram being better than that of the applicant. Balak Ram who was categorised good and it appears Tota Ram categorised very good and that is why the appointment was given to the said promotion post on 20.8.82. Balak Ram

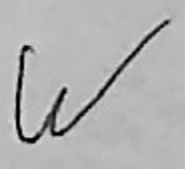
Contd-----2



was subsequently promoted to the said post on 16.5.83. The respondents opposed the application of Balak Ram on this ground that Tota Ram was selected and further he had been selected and he has got no cause. The trial court has rightly decreed the suit of the plaintiff holding that as to selection was to be made on the basis of seniority cum merit. Balak Ram not having been found to be unfit but was found to be fit and merely because another person was categorised fit better by the departmental officer. Balak Ram would not lose such promotion as promotion was not on the basis of merit cum seniority but the criteria seniority cum merit. Whenever there is criteria on the seniority cum merit it seems that the senior person is to be given appointment unless he did not found unfit. Balak Ram was not having found fit he was to be appointed with effect from the date Tota Ram has been appointed. Although Balak Ram has been appointed subsequently but now his promotion which takes back from the date his junior Tota Ram was selected, accordingly this appeal was dismissed and the order passed by the trial court is maintained, with the observations that Balak Ram's promotion will be deemed to be with effect from the date the said Tota Ram was promoted from the back date notionally.

No order as to the costs.

  
A.M.

  
V.C.

Dated: Allahabad  
19.8.92

(AR)