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Court No.1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A. No.407 of 1986

(Civil Appeal No.173 of 1985 of the Court of)
District Judge, Aligarh

Union of India & Another Defendants/Appellants

Versus

Satya Prakash Varshneya Plaintiff-Respondent

Hon. Justice Kamleshwar Nath, V.C.

Hon. Mr. K.J. Raman, Member (A)

(BY Hon. Justice K.Nath, V.C.)

Civil Appeal mentioned above is before this Tribunal under Section 29 of the Administrative Tribunals Act, 1985 against the decree dated 10.9.85 in Original Suit No. 454 of 1984 of the Court of Civil Judge, Aligarh.

2. The plaintiff respondent was a Telephone Operator in Hathras Telephone Exchange when he was due for promotion on 30.11.1983 which was not given to him. On 29.5.84 he gave a notice under Section 80, Code of Civil Procedure and when he got no redress he filed Civil Suit on 11.10.84.

3. A written statement was filed on 2.5.85 in which it was said that the plaintiff ^{respondent} was not entitled to the promotion in question because the Vigilance Enquiry was pending against him. The pendency of Vigilance Enquiry was denied by the plaintiff respondent. However, during the pendency of the Suit, the plaintiff respondent was promoted with effect from the due date ^{with} and due seniority. It was communicated by letter dated 29.7.85.

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4. The finding of the Lower Court is that the defendants-appellants have not been able to prove that the Vigilance Enquiry is pending against the plaintiff-respondent. The learned Civil Judge observed that the plaintiff-respondent's legal rights of promotion had been violated and for that reason he had to issue a notice under Section 80, Code of Civil Procedure. For that reason, according to him, the plaintiff-respondent was also entitled to costs. The Suit was decreed with costs with the direction that the defendants-appellants would fully implement their orders contained in the letter dated 29.7.85.

5. This appeal has been filed only against the award of cost by the Trial Court.

6. We have heard the learned counsel for the parties. The contention of the appellant is that the plaintiff-respondent's claim having been accepted by the defendants-appellants, costs should not have been awarded. The contention of the plaintiff-respondent is that he had been unduly harassed so much so that false allegation of the pendency of the Vigilance Enquiry were made but not established, and that the Lower Court had recorded reasons to grant costs, which were in his discretion; hence this Tribunal, in appeal, may not interfere.

7. We find that the finding of the Lower Court that the plaintiff-respondent had been improperly

deprived of his due promotion from the appropriate date which was not remedied despite opportunities to defendants-appellants by notice under Section 80, Code of Civil Procedure and that the allegation of the pending Vigilance Enquiry was not established, is not shown to be erroneous. These reasons are quite proper for awarding costs and we find no reason to interfere. We think that this appeal is quite ill advised.

8. The appeal is dismissed with costs which we assess at Rs. 500/-.

RKM

Member (A)

GL

Vice Chairman

Dated the 8th Jan., 1990.

RKM