



CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Transferred Suit No.1085 of 1986.

Sri S.N.Dey

plaintiff

Versus

Union of India

Defendant.

Hon'ble D.S.Misra, A.M.

Hon'ble G.S.Sharma, J.M.

(Delivered by Hon'ble D.S.Misra)

This is an original suit no. 551 of 1974 which was pending in the court of IV Addl.Civil Judge, Kanpur and has come on transfer under Section 29 of the A.T.Act XIII of 1985.

2.The plaintiff's case is that he joined the Ordnance Clothing Factory Shahjahanpur on 1.5.51 as apprentice (Clothing Technology) and while working as Asstt.Foreman he was appointed as Assistant Manager on probation on 12.11.1963 after his selection by the Union Public Service Commission; that he completed his two years'probationary period on 26.11.1965 and worked as Asstt.Manager Clothing Factory, Shahjahanpur; that the plaintiff brought on record gross discrepancies in making recoveries from the employees' salary and defective production planning which resulted in the plaintiff incurring displeasure of his superior officers ;that due to the prejudice and malice developed by superior officers, he was superseded for promotion as Deputy Manager in the year 1967, 1969, and 1971 and for promotion as Manager in the year 1973. The plaintiff has alleged that his supersession by persons junior to him was due to mala-fide of his superior officers.

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After the filing of the written statement by the defendant, the plaintiff got the plaint amended. The plaintiff has prayed for issue of a declaration that the plaintiff's supersession by his juniors in the matter of promotion from the post of Asstt. Manager to the post of Deputy Manager and again to the post of Manager is illegal and ultra vires and the plaintiff is entitled to such promotions with retrospective effect from the date which the court finds due with full benefits.

3. In the reply filed on behalf of the defendants, it is stated that the functioning of the plaintiff as Asstt. Manager was not satisfactory and during the second and third year of his service, his performances were not found upto to mark due to incompetence and insufficiency in many respects and he failed to show any improvement despite continuous advice communicated to him; that the plaintiff was not considered for promotion by the DPC meeting held in the year 1967 as the plaintiff had not completed the minimum prescribed period as Asstt. Manager; that in the year 1969, the DPC did not find him fit for promotion as the performance of the plaintiff was not found upto the mark on the basis of his annual confidential reports; that with a view to give the plaintiff an opportunity to work in a new environment he was transferred from Clothing Factory Shahjahanpur to Clothing Factory Avadi in June, 1969 and while functioning as Asstt. Manager at Avadi, the petitioner was found responsible for loss of stores detected at the time of the annual staff checking held on 31.3.71; that in the DPC meeting

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held in 1971 the plaintiff was again not found fit for promotion to the post of Dy. Manager on the basis of annual confidential reports of the plaintiff; that the plaintiff was transferred from Avadi to Ordnance Clothing Factory Head Quarter Kanpur in August, 1971 and he failed to make any ~~any~~ improvement and the DPC held in 1973 again found him not fit for promotion to the next higher grade; that the plaintiff filed an appeal against his supersession to the President of India which was also rejected. The defendants have denied the allegations made by the plaintiff against his superior officers regarding malafide and prejudice. It is also stated that the supersession of the plaintiff is due to his incompetence, inefficiency, and ~~un~~satisfactory performance of his duties.

4. We have heard the arguments of the learned counsel for the parties. Written arguments have been filed by both the parties and we have carefully perused the documents on record. During the trial of the case by the trial court the plaintiff prayed for production of various documents by the defendant, most of which were produced and for the rest the defendants expressed inability or by claiming privilege as being official documents. In his various replications, the plaintiff has made many allegations including an allegation that his annual confidential reports were changed to prevent his promotion. The plaintiff has also made various allegations regarding the conduct of inquiry into the shortages detected in the year 1971. The defendants have denied all these allegations and have stated that the board of inquiry consisting of senior and responsible officers had carefully examined all documents

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available on the record and submitted its report after following the prescribed procedure .We have carefully gone through the documents and we are of the opinion that it is not possible to place any reliance on the various allegations made by the plaintiff. The plaintiff has made allegations against his superior officers by name without impleading them as party to the suit. These allegations have been denied by the defendant and as the individual officers have not been given any opportunity to state their case, it is not possible to place any reliance on the various allegations made by the plaintiff.

5In the written statement filed on behalf of the defendant, it is clearly stated that the adverse remarks on the work and conduct of the plaintiff were communicated to him from time to time and plaintiff had full opportunity to make a proper representation to the higher authorities for its expunction. If the plaintiff did not make any representation, or did not succeed in getting the adverse remarks expunged by the competent authority, he can not take the plea in this suit that these remarks were unjustified and made with malafide intention. We are of the opinion that there is no reason to question the findings of the Departmental Promotion Committee regarding the fitness of the plaintiff for promotion to a higher post.

For the reasons mentioned above, we are of the opinion that there is no merit in the suit and the same is dismissed without any order as to costs.

[Signature]
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A.M.

[Signature]
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J.M.

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