

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration T.A.No. 1109 of 1986  
( O.S. No. 1015 of 1985 )

Shri Jawaharlal                      ...                      ...                      ...                      Plaintiff/  
Applicant.

Versus

Union of India                      ...                      ...                      ...                      Defendant-  
Respondent.

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. K. Chayya, Member (A)

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

This is a transferred case under Sec. 29 of the Administrative Tribunals Act, 1985. The applicant filed a suit in the court of Munsif City, Kanpur praying that a decree of declaration may be granted to the applicant declaring that the supersession of the plaintiff is illegal and unconstitutional and he being entitled for promotion to the post of Supervisor-B (N&T) w.e.f. 29.9.1984 i.e. the date from which his first junior was promoted as such; By operation of law this case has been transferred to this Tribunal.

2. The applicant's case is that he was appointed as Assistant Store Keeper in NIE cadre in the Ordnance Factory Kalpi Road, Kanpur in the year 1976. A selection list of NIE (Group-C) drawn up by the DPC(III) vide order dated 19.3.1982 which relates to the General, SC and ST candidates. The applicant who belongs to SC category, his name appeared in the said selection list at Serial No. 4 of SC candidates for eligibility of promotion to the post of Supervisor-B. The General Manager, OFC promoted the SC candidates in order

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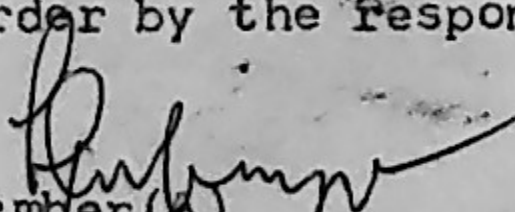



of seniority as per list upto Sl. No. 8 during the intervening period and the incumbent at Sl. No. 8 was promoted w.e.f. 10.4.1985 and the applicant who was at Sl. No. 4 in the list without assigning any reason has not been promoted, and he was thus, superseded by his juniors. Thus, according to the applicant he was entitled for promotion after promotion of Shri Ramdas who was at Sl. No. 3. According to the applicant, the list in which his name finds place was neither cancelled nor superseded and no fresh list whatsoever was prepared and he was not communicated any reason for supersession of the same at this stage. He made representations to the General Manager but when no action whatsoever, was taken against his representation, he filed a civil suit.

3. The respondent has resisted the claim of the applicant in his written reply filed by him, thereafter, the supplementary affidavit has also been exchanged ~~between~~ between the parties. The respondent has stated that a Departmental Promotion Committee selection list was published vide OPC Factory order dated 19.3.1982 for the post of Supervisor-B (NTStores) from the Assistant Store Keepers in respect of General candidate, SC candidates, and ST-candidates. The SC candidates were promoted as per availability of vacancy but the applicant and other incumbent could not be promoted due to non-availability of vacancy during the validity period of DPC selection list. The period of validity of this DPC expired on 18th September, 1983 after 18 months as mentioned in the DPC selection list at para-2. The applicant could not be promoted for the reasons which <sup>were</sup> already intimated to the



applicant vide order dated 8.10.1984 and in the letter it has been mentioned that his case was duly considered by the DPC-III and it is regretted that his request for promotion to the post of Supervisor-B cannot be accepted. The respondent has stated that as it was a selection post and applicant ranked lower than other persons and in the meantime, the life of the panel exhausted so the applicant had no right to say that he should have been promoted. The learned counsel for the applicant contended that there are certain handwritings in the DPC proceedings which has been produced before us even if certain notes have been made, that will not make it a doubtful paper. The applicant has been categorised and given a particular category, but he was placed at Sl. No. 4 and the person upto Sl. No. 3 have been given promotion between 18 months and it is only the misfortune of the applicant that he could not get the chance. As such, we do not find any ground to set aside the selection which has already been taken place earlier. Accordingly, the application has got to be dismissed. However, we make it clear that in case, any vacancy arises, the applicant's case may be considered in the light of the various notifications issued in respect of the SC and ST candidates. Let the matter be scrutinised within 3 months from the date of communication of this order by the respondent. No order as to costs.

  
Member (A)

  
Vice-Chairman

Dated: 13.8.1992

(n.u.)