

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

T.A. No. 120 of 1987.

Chandra Prakash Srivastava & others Applicants.

Versus

Union of India & others, Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, A.M.

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

The applicants, at the relevant point of time, were working on the stores side in COD, Naini, Allahabad. As the applicants were not promoted to the post of Store Superintendents from the post of Senior Store Keepers and their juniors were promoted, they filed writ petition before the High Court which, by operation of law, has been transferred to this tribunal. They have prayed that a mandamus be issued commanding the respondents to promote the applicants ^{from} anti-date. A mandamus be also issued commanding the respondents to promote the applicants and place them in the promotion list at their appropriate place and the order dated 5.4.84 and the promotion list, issued under it, in which the applicants' names do not find place, be quashed.

2. The respondents have resisted the claim of the applicants and have pointed out that the post of Store Superintendent is a selection post and the promotion is made strictly on the basis of merit which is adjudged by the Departmental Promotion Committee which consists of senior officers and the applicants' case was considered by the Departmental Promotion Committee in the year 1982 but in view of the fact that the applicants did not come within the eligibility criteria, that is why they were not promoted and in the year 1984 those persons, who were graded

'outstanding, were promoted , that is why the applicants were not promoted. In the year 1985, they were found fit for promotion, ^{then} they were promoted.

3. Learned counsel for the applicants contended that in the year 1984, the Annual Confidential Reports have not been properly considered by the Departmental Promotion Committee and one Sri M.N.Chaturvedi, who had received adverse entry, was promoted but the applicants were not promoted. The assertion, made by the applicants, has been denied in descriptive manner in the counter-affidavit. In the contents of para 24 of the counter affidavit, nothing has been said, although the applicants have made very clear statement in this behalf. This descriptive denial appears to be a denial. Although it being a selection post, the applicants are obviously not entitled to get promotion by way of right. As the selection was based on a criteria 'merit-cum seniority' and the applicants were lower in merit, the others were promoted and the applicants cannot claim for the said post and if the others were promoted with ^{re-}prospective effect, the same cannot be challenged. But one thing remains that if a person, who had a low merit and had an adverse remark, has been promoted, the applicants' case was better than him and their case will be considered and the respondents are directed to hold a review Departmental Promotion Committee to consider the record of the applicants along with the record of said M.N.Chaturvedi. If the case of the applicants is found better than the others, they may also be given promotion with retrospective effect. Let a review DPC be held within a period of three months.

lw

-3-

With these observations, the application stands disposed of. No order as to costs.

Reinberg

MEMBER(A)

DATED: JULY 30, 1992

(ug)

Le

VICE CHAIRMAN.