

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration T.A.No. 126 of 1987
(O.S. No. 49 of 1984)

B.B. Das Applicant.

Versus

Union of India
and others Respondents.

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

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

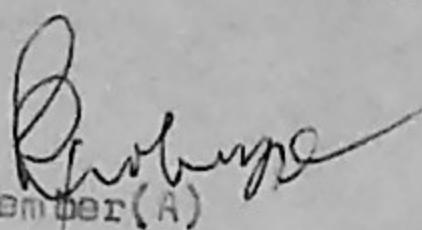
This is a transferred case under Section 29 of the Administrative Tribunals Act, 1985. The applicant filed a suit in the court of Munsif Roorkee, District Saharanpur praying that a decree for injunction may be granted restraining the defendants from promoting the private respondents from the post of Foreman to C.T.I. before promoting the applicant and a decree for injunction may also be granted promoting the applicant to the said post. Subsequently, it appears that during the pendency of this case i.e. in the year 1985, the plaint itself was amended and number of amendments has been made and the reliefs as claimed were also amended and by amendment the applicant has prayed that a decree for declaration may be granted declaring that the promotion orders given by the respondents No. 1 to 3 to the respondents No. 4 to 7 are void, illegal and inoperative and does not affect the applicant's seniority. It appears that the application was filed earlier but before any order could be issued, promotion orders were passed by the respondents and that is why the suit was amended.

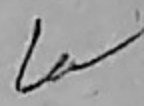
2. The applicant was appointed as Civilian Trade Instructor in the Bengal Engineering Group Roorkee on 11.2.1986 and during the pendency of the suit, the respondent Nos. 1 and 3 who deliberately after superseding the applicants has promoted the respondents

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3. The respondents in their written statement have stated that the recruitment rules of Civilian Instructor Foreman were published vide Gazette of India dated 5.7.1971 and the same were amended vide SRD dated 17th October, 1977. The post of Civilian Instructor Foreman is a selection post, as such, all the promotions are made on the basis of merit-cum-selection and not on the basis of seniority-cum-merit, as has been alleged by the applicant. In the year 1982, one Shiv Narain being Scheduled Caste candidate was promoted in the reserved vacancy and in the year 1983, 4 persons were promoted to fill up the vacancies in different trades on merit-cum-selection basis on the recommendations of the Departmental Promotion Committee. The applicant is Civilian Trade Instructor of Engine Fitter Trade and in this trade a Civilian Instructor Foreman already exists and there was no further requirement. The applicant was not given promotion because he was a refugee from East Bengal and no weightage or preference is allowed to him. But, the respondents have stated that he was not promoted because there was no vacancy in the trade to which he belonged. There are 7 vacancies of Foreman in different trades lying vacant and the promotion will be made depending upon the requirement / work load and on the basis of selection-cum-merit. No body is going to be selected and promoted in this Engine Fitter Trade, to which trade the applicant belongs and is working as Civilian Trade Instructor. The applicant has never been superseded by the ~~respondents~~ respondents and he can not claim parity, equality in promotion to the trade to which he did not belong. These facts makes it clear that the post was a selection post and the selection will be made as and when vacancies arise. And in case, the applicant is found fit, there appears to be no reason, why he will not be promoted.

4. Accordingly, the respondents are directed to consider the claim of the applicant for promotion and will take care that no persons junior to the applicant in his trade were given promotion in preference to the applicant, ^{without selection.} The application is disposed of with the above directions. No order as to costs.


Member (A)


Vice-Chairman

Dated: 7.9.1992.

(n.u.)