

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

T.A. No.187/87(T)

in

(O.S. No.933/84 with
No.565/85)

Nathi Lal Applicant.

Vs.

Union of India & Others Respondents.

Hon. Mr. Justice U.C. SRIVASTVA, V.C.

Hon. Mr. A. B. GORTHI, A.M.

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

The applicant, who retired from service in the year 1986 filed a Suit in the Court of Munsif, Agra, praying that it may be declared that the orders dated 2-9-1983 and 3-9-1983 are illegal, invalid, in-operative and, therefore, he is entitled to regular promotions, increments and all other benefits w.e.f. 22-12-77 as he would have been entitled to, in normal course according to his qualification, length of service, seniority, etc. By operation of law the suit has been transferred to this Tribunal.

2. The applicant was appointed as a Peon in the year 1951 in the Income-Tax Department. According to him he should have been promoted as Daftari in the year 1964, along with Shri Misri Lal Jain for which he has been agitating since then. Ultimately he was promoted on 2-9-1983 as Notice Server, but on the very next day i.e. on 3-9-83 and order was passed reverting him to the post of Peon, Selection Grade. The post of Notice Server is that of Class III, but the post of Peon, Selection Grade is the post of Class IV, as per the averments made by the applicant. The

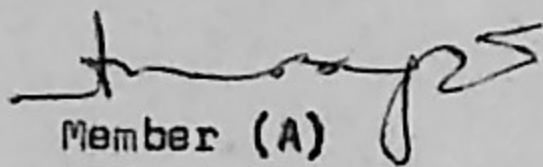
The grievance of the applicant is that although he was promoted he was reverted and has been deprived of the regular increments which he would have earned, had he been promoted as Daftari. The cumulative effect of this order is that he has been deprived of the normal promotion and increment besides service period has been curtailed for two years as the retirement age for Daftari is 60 years whereas for other posts the retirement age is 58 years. The reversion order is challenged on the ground that it is not in accordance with law and it is in violation to the principles of natural justice.

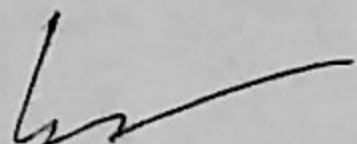
3. Now the respondents resisted the claim of the applicant and stated that the applicant's application dated 10-7-78 speaks that he was not willing to be considered for the post of Notice Server on health ground. As such he was not considered for that post. He never gave his willingness to be promoted to the post of Daftari or Notice Server and no such willingness was filed by him on 22-12-1983. The Departmental Promotion Committee considered the case of the applicant in the year 1983. He was promoted to the post of Peon Selection Grade and it was not correctly said that he was reverted to the post of Peon.

4. From the documents on records it is clear that earlier the applicant refused to become a Notice Server/Daftari on health ground and soon thereafter in his subsequent representation he offered to accept the post of Daftari / Notice Server. Thereby he showed his willingness to become a Daftari. In the subsequent representation also he reiterated the same and it is seen that the same was ignored by the department and that is why such plea has been taken. The proceedings of the Departmental Promotion Committee indicate that the applicant was considered fit for promotion to the post of Daftari and he was also selected as such. Yet he was promoted to the post of Peon Selection Grade.

5. It is true that subsequently a letter was issued in which it was mentioned that the applicant was likely to be reverted but

he was never reverted. As the applicant was selected for promotion to the post of Daftari/Process server, the order passed by the respondents promoting him to the post of Peon Selection Grade was not in accordance with law. Proceedings or recommendations made by the Departmental Promotion Committee should not have been varied in this manner by the respondents. Although the applicant has retired from service he has been agitating the matter. As such he is entitled to the benefit of selection which was made in the year 1983, after waiting for few years. The respondents are, therefore, directed to treat the applicant as Daftari with effect from 3-4-83 and give him all monetary and other benefits treating him as he has retired from the said post. Let the payment of arrears of salary, pensionary benefits etc. on the said post be given to the applicant within a period of 3 months from the date of communication of this order.


Member (A)


Vice-Chairman.

Dated 13th May, 1992, Allahabad.

(tgk)