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Reserved

Central Administrative Tribunal, Allahabad.

Registration T.^A.No. ~~XXX~~ 287 of 1987

Bhagwan Ojha

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Applicant

Vs.

Union of India and others

Respondents.

Hon. D.K.Agrawal, JM

Hon. K.Obayya, AM

(By Hon. D.K.Agrawal, JM)

Writ Petition No. 316 of 1978 pending in the High Court was received on transfer in the Tribunal under the provisions of S.29 of the Administrative Tribunals Act XIII of 1985 and registered at the above indicated number in the year 1987. The prayer, as contained in the Writ Petition, is to the effect that a writ, direction, order in the nature of certiorari be issued quashing the order of reversion dated 21.1.1978 contained in Annexure 7 to the Writ Petition.

2. The facts are that the Petitioner (hereinafter referred to as the Applicant) having been appointed as Clerk in the Railway Department in 1954 was promoted in due course as Senior Clerk and with the introduction of post of Hindi Translators in the year 1969, he was appointed as Translator, then a Senior Translator and ultimately as Head Translator in the year 1976. As a stop-gap arrangement, he was given a chance to officiate as Hindi Superintendent in the grade of Rs.700-900 on ad-hoc basis at Lucknow w.e.f. 22.6.1977 vide annexure 5 to the Writ Petition. He was, however, reverted on 21.1.1978. The above mentioned Writ Petition was filed by him on 30.1.1978. The operation of the impugned order dated 21.1.1978 was stayed by the Lucknow Bench of Allahabad High Court for a day and the same was never extend-

D.K. Agrawal

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ed subsequently for the reason that the impugned order had already been acted upon, i.e., the Applicant was relieved on the passing of the impugned order of reversion dated 21.1.1978. It is further borne out from the record that the Applicant was put to a written test and viva-voce, as required under the Railway Board's circular dated 28.7.1976 (Annexure CA-1 to the Counter Affidavit of the Respondent nos.1 to 3) in the year 1980 and promoted to the post of Hindi Superintendent w.e.f. 28.6.1980 and retired as such on 30.4.1987.

3. The question is as to whether the Applicant is entitled to any relief at this stage. In view of the prayer contained in the Writ Petition, we are of opinion that no relief can be granted to the Applicant after his retirement, more particularly, because of the fact that he accepted to appear in the test required to be undergone for promotion from the post of Head Translator to the post of Hindi Superintendent, as a result of which he was appointed to the post of Hindi Superintendent w.e.f. 28.6.1980. Thus, it puts an end to the matter. However, on merits also, we are of opinion that the impugned order of reversion was passed for good reasons. It would appear that the Railway Board's circular dated 28.7.1976, mentioned above, provided a suitability test for promotion from the post of Head Translator to the post of Hindi Superintendent. The Applicant, therefore, could not have been promoted without undergoing the test. The officiating promotion on adhoc basis did not confer any right on the Applicant to remain on the post of Hindi Superintendent. In this view of the matter, the alleged order of reversion dated 21.1.1978 was technically speaking, not an order of reversion. Therefore, no legal right accrued to the Applicant on the post of Hindi Superintendent which was given to him on adhoc basis only. It is also relevant to mention that there was a test in

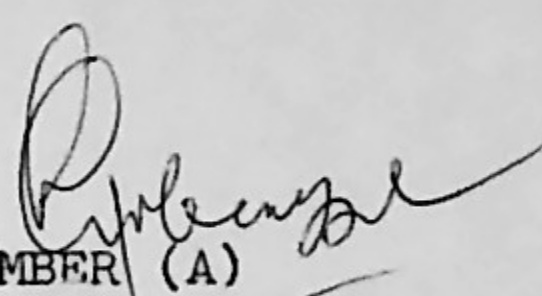
Dr. Aggarwal

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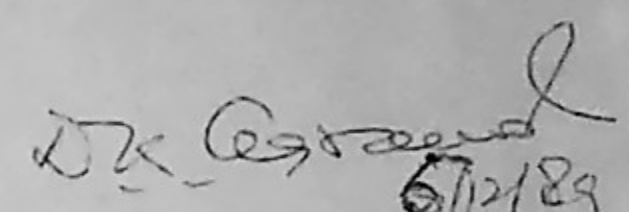
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May 1977, which the Applicant did not undertake on the pretext that he had no knowledge of the same. The Department, in all fairness, again provided a chance to the Applicant in the year 1980 to complete the test and on completion thereof, he was given the appointment on the post of Hindi Superintendent. In this manner as well, the matter has come to an end. It may also be mentioned that the Applicant, for reasons best known to him, did not amend his Petition at ^{any} the stage seeking seniority over his juniors or refixation of pay. Therefore, the Applicant is not entitled to any relief in respect thereof. It appears that the Applicant was ill-advised to prefer a Misc. Application to that effect without praying for amendment of the Petition. In view of the failure on the part of the Applicant to plead to that effect, no relief in this regard can be granted to him.

4. In view of the foregoing discussion, the Petition is dismissed without any order as to costs.


MEMBER (A)

Dated: 8th .12.1989
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MEMBER (J)