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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...
Registration T.A. No. 1821 of 1987
(W.P. No. 5224 of 1985)

Ved Mitra Misra Applicant.

Versus

Union of India
and ~~one~~ another Respondents.

...
Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, 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 has prayed for quashing of the order dated 20.3.1985 and further the respondents are directed not to interfere in the working of the applicant as Assistant Superintendent Grade 550-750(RS) and further the respondents may be directed to regularise the appointment of the applicant on the post of Assistant Superintendent being held by him.

2. The applicant was appointed as Senior Clerk against graduate quota in the scale of Rs. 330-560(RS) on 1.12.1962 and was confirmed in his appointment with effect from 14.5.1967. The applicant was promoted to the post of Headclerk in the scale of Rs. 425-700(RS) w.e.f. 1.10.1980. The applicant was promoted to the post of Assistant Superintendent w.e.f. 27.8.1984. A selection for the post of Assistant Superintendent in the grade of Rs. 550-750 (RS) was held on 14.3.1985. The juniors to the applicant were selected and according to the applicant, he was not even informed of the

date of the selection which took place behind his back. On 27.6.1983, the adverse entry for the year ending 31.3.1982 was communicated to the applicant and against which the applicant has made representation on 2.12.1982. The decision on the representation of the applicant has not yet been communicated to him and according to the applicant, it must have been expunged and that is why he was promoted to the post of Assistant Superintendent on 27.8.1984. The applicant could not have been reverted and in his place no adjustment in this manner could have been made and that is why he has challenged the said selection as violative of para 212 of the Indian Railway Establishment Manual and Articles 14 & 16 of the Constitution of India and principles of natural justice.

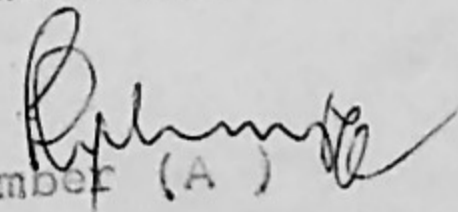
3. The respondents have opposed the application and have stated that the post of Assistant Superintendent is a selection post and for its regular promotion the person is to qualify the regular selection. The applicant had never qualified for regular selection and his posting as Assistant Superintendent w.e.f. 27.8.1984 was merely an office arrangement made on the local level on adhoc basis and the same was in no way official order being regular selection. Even subsequent year also, the applicant's case for ~~selection~~ selection was considered but he was not found fit and that is why he was not selected, and that

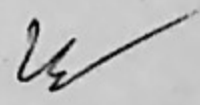
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is why his juniors who were selected, their names were included in the panel. The learned counsel for the applicant further contended that in case the restructuring has already come into effect and the promotion could have been made in accordance with the modified formula but the same was not done. This has been stated in the Supplementary Affidavit. This fact has not been stated in the application, as such it is not necessary to express any opinion on this point.

4. Accordingly, this application deserves to be dismissed in view of the fact that the order has been passed as a result of the selection so made. As to whether the applicant can claim any benefit of restructuring, we make no observation in this behalf and the applicant can approach the department for the same. No order as to the costs.


Member (A)


Vice-Chairman

Dated: 24.3.1993
(n.u.)