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CENTRAL ADMINISTRATIVE TRIBUNAL ALIHABAD BENCH ALLAHABAD

O.A.No.75 of 1987.

Prem .....Applicant.

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 applicant has approached this tribunal praying that it may be declared that the order dated 5.5.86 is illegal and the respondents be directed to promote the applicant on the post on which the respondent no.4 was promoted with all benefits w.e.f. 5.5.86.

2. The applicant was appointed as Hospital Attendant on 1.2.66 and as he was holding driving licence, he was given appointment of Temporary Ambulance Driver. A trade-test for the post of Ambulance Driver took place in Allahabad Division on 28.8.85 and the applicant qualified the same along with respondent Dhani Ram. The Divisional Personnel Officer wrote to the Divisional Medical Officer to know that if any case of major penalty of SPE vigilance is pending or contemplated against the applicant as well as against Dhani Ram. The respondent promoted the respondent no.4 Dhani Ram and the applicant was not promoted. The applicant made representation but despite representation, the said Dhani Ram was appointed in place of Ram Kishan who was promoted to the higher grade. The applicant

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again represented against the same but he did not get any relief from the department. Thereafter, he approached this tribunal.

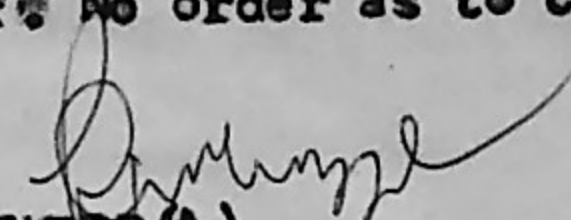
3. The respondents opposed the application and they have stated that the applicant was negligent in the work and he was earlier suspended but the suspension order was revoked. He was suspended because of the criminal case pending long ago, though he was acquitted in the same on 11.8.75. Thereafter the suspension order was also revoked but as the disciplinary proceedings were pending, the applicant was not promoted. The learned counsel for the respondents contended that the applicant himself is not very clear and he has not categorically stated that on which date, the charge-sheet was served upon him. The respondents are the custodian of the record and they should have stated the date on which the charge-sheet had been served on the applicant and the documents which have been produced, do not state <sup>anything</sup> /anywhere except that an enquiry was definitely contemplated against the applicant and they do not prove that any selection or appointment was made. So long a charge-sheet was not served and the enquiry was not commenced, the respondents could not have bypassed the claim of the applicant for the promotional post. Accordingly, the respondents are directed that if no charge-sheet was served on the applicant, the case of the

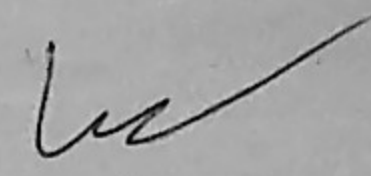
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applicant for the promotional post shall be considered by the respondents and if the charge-sheet had already been served on the applicant, the benefit of this order will not be available to the applicant. With these observations, the application stands disposed of. No order as to costs.

  
MEMBER (A)

  
VICE CHAIRMAN.

DATED : OCTOBER 14, 1992

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