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CENTRAL ADMINISTRATIVE TRIBUNAL ALIHBAD 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

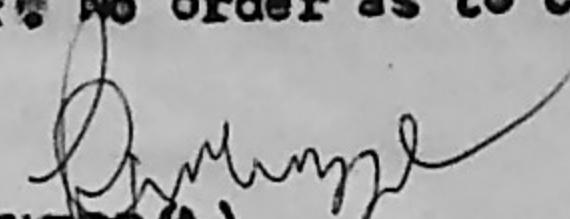
again represented against the same but he did not get any relief from the department. Thereafter, he approached this tribunal.

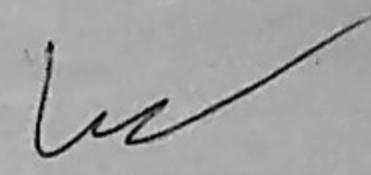
3. The respondents opposed the application and they have stated that the applicant was negligent in the work and he was earlier suspended but the suspension order was revoked. He was suspended because of the criminal case pending long ago, though he was acquitted in the same on 11.8.75. Thereafter the 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/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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