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RESERVED

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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD

Dated: Allahabad this ...30.10. day of April 1996

Hon'ble Dr. R.K. Saxena, JM

Hon'ble Mr D.S. Baweja, AM

ORIGINAL APPLICATION NO. 1174 OF 1987

Ghanand Juyal aged about 47 years,  
Stenographer, Office of the C.W.E.(P)  
Factory Raipur, District Dehradun - PETITIONER  
(By Advocate Sri B.P. Srivastava)  
Versus

1. The Union of India through the Secretary  
Ministry of Defence, New Delhi
2. The Engineer In Chief, Coordination and  
Personnel Directorate, Army Head Quarters,  
D.H.Q., P.O. New Delhi - RESPONDENTS  
(By Advocate Sri N.B. Singh)

ORDER

(By Hon'ble Dr. R.K. Saxena, JM)

This O.A. has been filed by Ghanand Juyal  
claiming his promotion to the post of Office Superintendent  
Grade II with effect from 1975 and seeks quashing of  
Annexure-2 dated 24.3.87.

2. The brief facts of the case are that the  
applicant was appointed as Stenographer under the  
Respondent No. 2 on 22.7.64. At the time of joining  
service, the Stenographers Grade III were eligible for  
promotion to the post of Assistant Incharge.

According to the extant Rules, 10% of the vacancies were earmarked to the Stenographer, while 90% to the posts were fixed <sup>for</sup> Upper Division Clerks. The Roaster was also prescribed and according to the said Roaster, first vacancy was marked to the Stenographer while the second to 10th the vacancies were fixed for U.D.C. In this way, the Stenographers had avenue of promotion to the post of Assistant Incharge. Despite this Rule having been in existence, the promotions were rarely done from the cadre of Stenographers. The Rules were also amended from time to time to the detriment of the interest of the Stenographers. The applicant has disclosed at Page 12 of O.A., the figures in different years of selection of U.D.C. and Stenographers to the post of Superintendant Grade II. It can well be given in the following chart:-

Year	Promotion from U.D.C.	Promotion from Steno.
1970-75	475	-
1975	314	31
1980	286	39
1982	136	6
1985	201	14
Total:-	1412	90

3. On the basis of these figures, it has been averred by the applicant that the ratio of 10% of posts earmarked for promotion to the Stenographers was not adhered to. The grounds which were disclosed <sup>@@</sup> to

the applicant were that either the D.P.C. had no sitting or the Rules were amended. Because of this fluctuating situation, the applicant claims to have suffered by not being promoted. He has, therefore, filed this O.A. with the relief as are already disclosed.

4. The Respondents contested the case by filing the Affidavit of Sri S.N.Gupta, Dy. C.W.E. (P), Dehradun, in which it is contended that it was incorrect to say that the quota for promotion to the Office Supdt. Grade II has not been adhered to. The Respondents pleaded that U.D.C. and Stenographers are two separate categories of employees for promotion to the post of Office Superintendent Grade II. Before the year 1985, the Stenographers were promoted as Personal Assistant, and those Stenographers, who had opted for Clerical cadre, were considered and promoted as Office Superintendent Grade II. The ratio of 9.1 was always observed whenever promotions were made from feeder channels of U.D.C. and Stenographers. It is also claimed that since the applicant had based his relief on the meeting of U.D.C. which had taken place in the year 1980, the O.A. is barred by limitation. The plea of the Respondents is also to the effect that the old Rules have no relevance and there is no merit in the case of the applicant.

5. The figures which have been given by the applicant about the promotion of 2 categories of employees

in different years, has been disputed and the Respondents gave their own figures which were claimed to be authentic.

They are:-

Year	Total vacancies	U.D.C. Selected	Steno. selected
Upto 1975	314	283	31
1980	286	246	40
1982	135	129	6
1985	201	186	15

6. By giving these figures, it has been asserted that the quota fixed for Stenographer was accurately filled up.

7. The applicant submitted Rejoinder which runs into 46 pages and the facts which had been mentioned in the O.A., were reiterated.

8. This matter relates to the year 1987 and had been pending for long. After the year 1993, the matter was listed for final hearing on 31.1.96, 19.2.96 and 28.2.96. Again when the case was taken up on 19.2.96, none was present for the applicant and when the Bench started going through the averments and the arguments of the Counsel for the Respondents, it was disclosed by the Learned Counsel for Respondents that the Counsel for the applicant was busy in High Court and adjournment was sought.

The matter being very old, it was adjourned to 28.2.96 with the directions that final hearing should be done on the subsequent date and no adjournment would be allowed. Again on 28.2.96 none appeared for the applicant while Sri S.K.-Anwar, Proxy. Counsel to Sri N.B.Singh, who was representing the Respondent, was present. We proceeded with the case and heard the Proxy- Counsel on behalf of the Respondents. The judgement was reserved. We waited for the Counsel for the applicant to submit his arguments after 28.2.96 but neither he came nor was any submission made orally or in writing in this case. We are deprived of hearing the arguments of the Counsel for Applicant. In this case, it would be proper to reproduce the reliefs which have been claimed by the applicant. They are :-

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- (a) That a declaration may issue to declare that the petitioner be considered for promotion for the post of office Superintendent Grade II with effect from 1975 when the D.P.C. ought to have been considered his case and in any case from 1978 and 1979.
- (b) That a declaration may issue to quash the order dated 24th March, 1987, Annexure II.
- (c) That a declaration may issue to declare that the petitioner be promoted to the post of Office Superintendent Grade II with retrospective effect from the date when the junior most U.D.C. was promoted as Office Superintendent Grade II in the year 1975 and the petitioner be given all the benefits and privileges of the continuity of post of Office Superintendent Grade II.
- (d) That any other suitable order, direction or declaration may be issued which this Hon'ble Tribunal may deem just and proper in the circumstances of the case.
- (e) That the costs of the present petition may also be awarded to the petitioner."

(15)

9. The perusal of the citation of the reliefs speaks that (a) and (c) are related to one point i.e. the promotion be directed to be given to the applicant with effect from 1975 or atleast from the date when Junior U.D.C. was given promotion in the year 1975. It is to be kept in mind that O.A. was filed in the year 1987. If the authorities concerned had any bias against the Stenographers in general or the applicant in particular, and the promotion was denied to the said category, the matter ought to have been agitated well within the time. We have already mentioned that no body had appeared on behalf of the applicant for making arguments. When we go through the averments made by the applicant, we also find the denial of those facts in the counter-reply. The Proxy, Counsel argued on behalf of the Respondents that in whatever year the promotions were granted to the U.D.C., the case of Stenographers was also considered and in Paragraph No. 25 those figures which have been extracted earlier, are also given. In this way, the generalisation of the problem that the Stenographers were not promoted, is not established. The applicant in guise of this generalisation is disclosing his own sub. It has not been mentioned as to who were other Stenographers in the different years and who were considered for promotion and finally selected. Since there is no averment on behalf of the applicant, there is no reply on behalf of the Respondents as well. If the applicant was due or not for the promotion, is not clear. In case the applicant is seeking his promotion from 1975, the O.A. is barred by limitation.

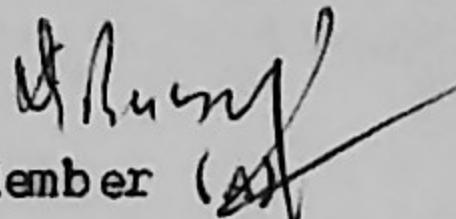
10. The second relief of the applicant is to quash the order of 24.3.87 Annexure - 2. When we go through this Annexure, we find that Annexure-2 is the remainder of representation made on 24.3.89 by the applicant. Thus there can be no declaration to quash the remainder of the representation. In case the applicant actually prays for quashment of the remainder of representation, it means that

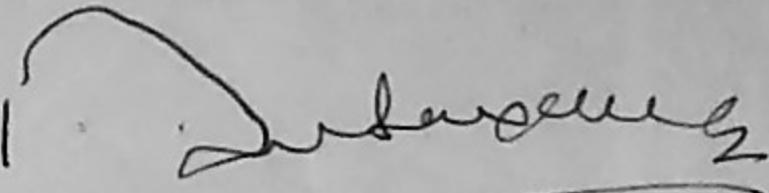
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that the applicant is coming with the plea that the promotions should not be given to him. Thus this relief cannot be granted in any form.

11. Any way, on the consideration of the facts and circumstances of the case, we are of the view that there is no merit in the case, The O.A. is, therefore, dismissed. Cost made ease.

  
Member (A)

  
Member (J)

RJ