

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

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Allahabad: Dated this the 10th day of ^{July} June 1996

ORIGINAL APPLICATION NO. 310 OF 1988

Hon'ble Mr. T. L. Verma J.M.
CORAM : Hon'ble Mr. D.S. Baweja A.M.

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Girish Pal Singh s/o Moti Lal,
r/o house no. 333-Mohalla Chepetty
P.O. and District Etawah City.

---.---.---. Applicant

C/A Sri R.B. Srivastava
Sri N.K. Srivastava.

VERSUS

1. Union of India through the Secretary
Ministry of Supply and Textiles,
Government of India, New Delhi.
2. Development Commissioner (Handicrafts),
Office the Development Commissioner
(Handicrafts, West Block no. 7,
R.K. Puram, New Delhi.

---.---.---. Respondents

C/R Sri Amit Sthalkar

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ORDER

By Hon'ble Mr. T. L. Verma J.M.

The applicant herein, seeks a direction to the respondents to promote him to the post of Assistant Director with effect from the date he became due for promotion against Scheduled caste quota with all consequential benefits including arrears of pay and allowances and seniority.

2. The applicant was appointed on 21.2.1976 as Junior Field Officer re-designated as carpet Training Officer under the Development Commissioner (Handicrafts) West block no.7, R.K. Puram, New Delhi. In the year 1979-80 some posts of Assistant Director were available for being filled ~~by~~ ^{promoting} by Carpet Training Officers/Senior Field Officer. ^{it is stated} Applicant is at serial no.26 of the seniority list of Carpet Training Officer in carpet training centres except the state of Jammu and Kashmir. ^{adverse} As no remark on the working and conduct of the applicant had been communicated till the date the vacancies ^{had} ~~were~~ accrued, the applicant had become eligible for being considered for promotion to the post of Assistant Director and in the normal course, he ought to have been promoted. The respondents no.2 issued promotion order dated 28.7.80 promoting 10 officers including one Schedule caste and schedule tribe candidate. The contention of the applicant is that according to reservation rules, two posts should have gone to scheduled caste candidates and one ~~of~~ to the schedule tribe candidate. The applicant was considered alongwith others by the D.P.C. in its meeting held on 28.4.1980 and was included in the panel drawn for selection of one schedule caste and one schedule

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tribe candidate. The applicant was, however, not promoted and only one vacancy of schedule caste candidate was filled by promoting Sri Jagmohan Prasad against the scheduled caste vacancy. The applicant submitted representation against his non appointment on 20.7.1980 (annexure 3) followed by reminders to the respondent no.1 and also to the Commissioner of Schedule caste and schedule tribes. The representation submitted by the applicant did not yield any result. The respondents ^{though} did not decide the representation filed by the applicant, ~~but~~ issued another promotion list, promoting four ~~field~~ Field Officers to the post of Assistant Directors. The applicant, therefore, filed writ petition no.3740 of 1980 in the High court of Judicature at Allahabad. The said writ petition was disposed of with a direction to the respondents to decide the representation of the applicant at an early date. The respondents, thereafter by letter dated 7.11.1984 informed the applicant that promotions to the post of Assistant Directors were being made on adhoc basis and that regular promotions have been withheld for some administrative reasons. That at the time of regular promotion by the Departmental Promotion ^{committee} ~~council~~, due attention will be paid to the quota of scheduled caste and schedule tribe candidates. In the year 1985, again Field Officers were considered for promotion to the post of Assistant Directors and ~~six persons~~ ^{six persons} including one Mohal pal a schedule caste officer was promoted as Assistant Director. That legitimate claim of the applicant for promotion, ~~and the~~ ^{it is alleged} ~~seniority~~ was ignored while promoting Mohan Pal, who was at serial no.27 against schedule caste vacancy. The applicant submitted representation this time also ~~again~~ against his illegal supersession, but the same

has not been decided so far. Hence this application for the reliefs mentioned above on the ground that the action of the respondents was arbitrary and in violation of the principle of equality enshrined in Article 14 and 16 of the Constitution.

3. The respondents have contested the claim of the applicant. In the counter affidavit filed on behalf of the respondents, it has been stated that in the year 1985 on the recommendation of D.P.C., seven Carpet Training Officers were promoted to the post of Assistant Directors vide order dated 8.10.1985 in the states other than Jammu and Kashmir. For two other candidates sealed cover procedure was adopted and they were promoted vide order dated 30.4.1986. The applicant was also considered by the D.P.C held on 14.8.1985, but he was not found suitable for promotion.

It is further stated that in the year 1980, the D.P.C. was constituted and as per its recommendations, ~~six~~ eight Carpet Training Officers were promoted as Assistant Directors on adhoc basis in the states other than Jammu and Kashmir on 15.5.1980. The allegation of arbitrariness and violation of the rules in making the aforesaid promotion has been denied by the respondents.

4. We have heard the learned counsels for the parties and perused the records.

5. So far as the claim of the applicant for promotion in the year 1980 is concerned, for the

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reasons presently stated, we find no merit in this case. Photocopy of the proceedings of the D.P.C. meeting held on 28.4.1980, which may be seen at annexure SRA-1, The Minutes of the D.P.C. indicates that the applicant had been recommended as one of the two candidates for appointment against one schedule caste vacancy. Field Officer, who ^{was} ~~was~~ promoted against the said vacancy of Assistant Director admittedly is senior to the applicant. The applicant could ~~not~~ have had legitimate grievance for not promoting him, had there been two vacancies available for schedule caste candidates. We have no material before us to show that there were two vacancies and the applicant was not promoted, though he had been considered fit for departmental promotion. We, therefore, find no merit so far as the claim of the applicant for promotion in 1980 is concerned.

6. Respondents have averred very specifically that the applicant was considered for promotion to the post of Assistant Director by the D.P.C. held in August 1985, but he was not found suitable. The applicant has filed copy of the Minutes of D.P.C. proceedings held on 14.8.1985. The D. P. C. had considered 27 Carpet Training Officers for promotion to 9 posts of Assistant Directors belonging to Carpet scheme (Sehu) other than J & K. This DPC, however, recorded its recommendation along with grading with the reference to the A.C.R in respect of 19 CTOs only. The promotion given on the recommendation of & Krishna Kumar 1985 D.P.C. was challenged by R.K. Rastogi by filing T.A.no.138 of 1987 and TA No.232 of 1987 respectively. In terms of the observations of the Tribunal in the aforesaid cases a Review D.P.C. was held on 28.7.94

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which examined the ACRs of those C.T.Os, including the applicant, whose grading was not recorded by the D.P.C. held in 1985. The Review D.P.C. also found the applicant not fit for promotion to the post of Assistant Director.

7. For satisfying ~~Examine~~ ourselves that ~~the above averments of the respondent~~ is correct for in the C.A., we have called the D.P.C. proceedings of 1985 and 1994 ~~for our perusal~~ and also A.C.Rs dosier of the applicant for our perusal.

8. The Review D.P.C. was held on 27.3.84 and the proceedings of the this D.P.C. indicates that A.C.Rs of the eligible C.T.Os including the applicant ^{Were} was considered. The applicant has been graded average on the basis of ACR of 1985. We have perused the remarks recorded on the work and conduct of the applicant during the year 1980, 81, 82, 83 and 1984 to ascertain whether the gradation of the applicant is justified or not. In 1980 the reporting officer has observed that during the period under report, his work and over all service was not satisfactor. In 1981 he has been assessed as average officer. ^{The} other remark is that his action was always of destructive nature, never initiated any constructive and purposeful work. "During his period the training suffered much and not even second stage of weaving completed in a single loom. not evinced interest in the office work. In the entire Jaunpur region, only in his centre, the training programme badly suffered due to his indifferent attitude". He was put under suspension for flouting government procedure and rules. No remark has been reported for the year 1983 as the applicant was ~~neither suspended~~

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under suspension from 13.7.1983 to 31.12.1983. The applicant has been assessed as average officer in 1984. The ACRs referred to above, in our opinion, fully justify the grading given by the D.P.C. to the applicant.

9. On a careful consideration of the facts and circumstances, we are satisfied that the applicant was considered for promotion to the post of Assistant Director in the Review D.P.C. against the vacancy of 1985 and he was found not suitable for promotion. The post of Assistant Director, being a selection post, the incumbent has to clear the selection test for being eligible for promotion. In the instant case, suitability of the applicant has been judged by the D.P.C. on the basis of his service record. The conclusion arrived at by the D.P.C. on the basis of the service record of the applicant, in our opinion, cannot be faulted with. There is thus absolutely no merit in the claim of the applicant for promotion ⁱⁿ as in 1985, ~~with~~ the result ~~that~~ the application is dismissed leaving the parties to bear their own cost.

A.M.
A.M.

J.M.
J.M.

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