

RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

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Allahabad : Dated this 5th day of February, 1999

Original Application No. 568 of 1988

District : Meerut

COURT :

Hon'ble Mr. S. Dyal, A.M.

Hon'ble Mr. S. K. Agrawal, J.M.

Tara Chand
S/o Shri Chhote Lal,
Under Garrison Engineer (North),
Meerut Cantt, Meerut.

(Sri K. P. Singh, Advocate)

..... Applicant

vs.

1. The Union of India,
Through its Secretary,
Ministry of Defence, New Delhi.
2. Chief Engineer,
Headquarters Central Command,
Lucknow.

(Sri V. Gulati, Advocate)

..... Respondents

ORDER

By Hon'ble Mr. S. K. Agrawal, J.M.

In this OA the applicant makes a prayer to direct the respondents not to revert the applicant from the post of LIA to the original post of Valvman in pursuance to the order dated 26-4-1988.

2. In brief the facts of the case as stated by the applicant are that the applicant was initially appointed as Majdoor in MTS on 9-8-1998 and his services were regularised on 18-4-1980. He was promoted to the post of Valvman w.e.f. 15-3-1986 for which the Garrison Engineer called four names from departmental candidates. The name of the applicant was also forwarded to the Garrison Engineer alongwith other candidates. The applicant was declared successful in written as well as viva voce and was appointed against reserved

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vacancy of SC on 2-9-1987. As explanation of the applicant was called for by Garrison Engineer North, the applicant submitted his explanation on 25-4-1988. The Commander Works Engineer gave a show cause notice to the applicant as to why the disciplinary action should not be taken against the applicant and suddenly on 26-4-1988, the order to revert the applicant from the post of LDC to the post of Walmman was issued. It is stated that the applicant was promoted on the post of LDC against the general vacancy and not against the reserved vacancy. No notice to show cause was issued to the applicant before the impugned order of reversion was passed, which is in violation of Articles 14 and 16 of the Constitution of India. Therefore, the applicant seeks the relief to quash the impugned order dated 26-4-1988 as mentioned above.

3. A counter affidavit was filed. It was stated in the counter affidavit that the applicant has wrongly and intentionally declared/described himself as member of ST in Column 5 of his service book and had also put his thumb impression and on the basis of this declaration, the applicant was given benefit of Government policy meant for SC/ST candidates and out of 12 posts of LDCs for SC/ST candidates, the applicant was also promoted as one of them because of his declaration, otherwise the applicant would not have been considered for promotion of LDC. When later on it was disclosed that the applicant is neither SC nor ST candidates, the applicant was ordered to be reverted. It is denied that ~~the~~ it was known to the authorities that the applicant belonged to the backward class at the time of forwarding his application and at the time of promotion. It is also denied that the impugned

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is in violation of the principles of natural justice and is in violation of Articles 14 and 16 of the Constitution of India. Therefore, in view of the averments made in the counter affidavit, it was submitted by the respondents to dismiss this OA with costs.

4. A rejoinder affidavit was also filed on behalf of the applicant which is placed on record.

5. Heard learned lawyer for the applicant and learned lawyer for the respondents and also perused the whole record and written submissions made by learned lawyer for both the parties.

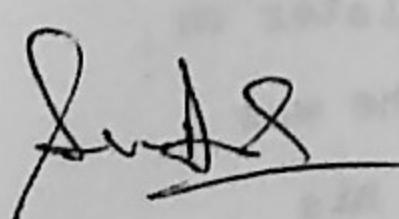
6. Learned counsel for the applicant submits that :-

(i) The applicant was punished by way of major penalty without following the procedure as given in Rule 14 CCA Rules and the impugned order of reversion is in violation of Article 311 (2) of the Constitution of India.

(ii) The promotion of the applicant was not done particularly for ST categories.

7. In support of his contention he has referred :-

- (A) Purushottam Lal Bhangra, AIR 1958 SC P.36.
- (B) (1989) 10 AIC 439 Shiv Ray Vs. UI & Ors.
- (C) AIR 1991 SC P.309 - SK Jha Vs. State of Bihar & Ors.
- (D) (1989) 10 AIC 337 - Sunder Lal Vs. UI & Ors.
- (E) AIR 1993 SC (L&S) 723 M.K. Yadav Vs. JMA Ind. Ltd.
- (F) (1995) 29 AIC 289 - M.S. Usmani Vs. UI & Ors.
- (G) (1991) 15 AIC 405 - Usha Levi Vs. UI & Ors.


7. On the other hand, learned lawyer for the respondents submit that before passing the impugned order a show cause notice was given to the applicant and the applicant also submitted his reply and after consideration of the reply, the impugned order was passed. Therefore, there is no question for violation of Articles 14 and 16

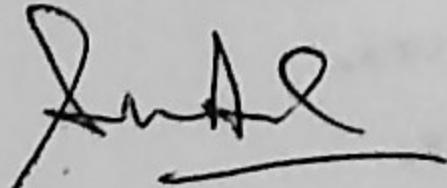
of the Constitution of India, and principles of natural justice in this case.

8. We have given our thoughtful considerations to the rival contention of both the parties and perused the case file.

9. The rulings cited by the learned lawyer for the applicant do not help the applicant as per facts and circumstances of this case.

10. On perusal of the file it appears that the notice dated 2-9-1987 (Annexure-5) makes it clear that explanation of the applicant was sought as to why this should not be brought to the notice of the higher authorities that the applicant was promoted against SC category on the post of LIC when he was not entitled for the same. Annexure-6 also clearly indicates that the applicant submitted reply vide his letter dated 15-9-1987 and thereafter the decision to revert the applicant on his original post of Valvman was taken vide order dated 26-4-1988.

11. It also appears that the applicant has wrongly declared himself as ST candidate in his service book and on the basis of his declaration given in the service book, he was extended the benefit of reservation. Later on it was revealed that Gaderia community neither belongs to SC nor ST but belongs to backward class, the impugned order was passed. The applicant was not initially given the benefit of reservation but later on by his declaration made in the service record, he was given the benefit of reservation at the time of his promotion as LIC. He has not declared himself as ST candidate in his service book, he could not have been considered



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for promotion to the post of LDC against 51 quota. As show cause notice was given to the applicant and the applicant has filed a reply before passing the impugned, therefore, the impugned order of reversion is not bad in law.

12. We, therefore, are of the opinion that by passing the impugned order of reversion, there is no violation of the principles of natural justice and there is also no violation of Article 14 and 16 of the Constitution of India and Rule 14 of the CCA Rules, 1964. There was no necessity to hold departmental inquiry under Rule 14 of CCA Rules 1964 before passing the impugned order.

13. We, therefore, are of the opinion that the applicant has failed to make out any case for interference by this Hon'ble Court.

14. We, therefore, reject this OA with no order as to costs.

/ Member (J)

Member (A)

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