

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 1031 of 1992

Shri Mohd. Wasif Khan ..... Applicants.

Versus

Union of India & ors. .... Respondents.

Honble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. V.K.Seth, Member-A

(By Hon'ble Mr. Justice U.C.Srivastava, V.C.)

By means of this application the applicant has challenged the validity and legality of his transfer as Supdt E/M Grade-I instead of as Asstt. Engineer (E/M) for which orders of promotion and posting have already been served but not relieved despite reminders to relieve him so as to be able to join his promotional post, whereas his juniors were allowed and relieved. He could not be informed as to why on his promotional postings he is not being relieved and later on the impugned order which amounts another penalty as non-compliance of previous promotion and posting order which still exists and can not be withheld. Thus according to the applicant the impugned order is not only unjust but unfair, improper and inoperative as it does not cancel or withhold the earlier order of promotion and posting. The applicant who was already working in the department was selected as Asstt. Engineer E/M and the selection took place on 17.4.1990 prior to the issuance of the promotion order. On 22.8.1990 a charge sheet was served upon the applicant and on 25.10.1990 a penalty order including the increment for one year was passed. It appears subsequent to the posting order the impugned order

of transfer was passed sending back the applicant to the post from which he was promoted. The applicant has challenged the said order of transfer contending it to be a reversion order on the ground that when he was found fit for the Departmental Promotional Committee duly approved but was not relieved, he could not be made to suffer because subsequently a minor penalty was served upon him and the transfer order amounts to withholding of promotion and the same cannot be imposed without following the proper procedure. From the facts it is clear that when the D.P.C. met the applicant it appears was found fit for promotion to the higher post but in the meantime before a promotion order should be issued the applicant was served with the charge sheet as the departmental proceedings against him were initiated although temporarily he could get the promotional post but when the proceedings were started the order of transferring him back to the promoted post was passed.

Learned counsel for the applicant contended that of course where he was duly empanelled and merely because the promotion order was delayed the applicant cannot be made to suffer because of the minor penalty was awarded to him. No panel was ever declared may be that when the Departmental Promotional Committee met there was no charge sheet against the applicant where normally he could have been promoted but disciplinary proceedings against him were started and that is why he was not promoted. But for minor penalty it was not necessary to hold detailed enquiry. It was in

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the discretion of the disciplinary authority to hold a detailed enquiry or not to hold enquiry. If he found that it was a case in which a detailed enquiry is needed. After giving the opportunity of hearing to the applicant and taking into consideration the facts the disciplinary authority passed the order, and thus he has not acted in violation of any provisions as he was competent to do so. The transfer order was passed in the exigencies of the service and during the punishment period the applicant could not get any promotion. By lapse of time the period of punishment was over and there appears to be no reason that now why the applicant was not duly selected will not be given the promotion.

With the above observations for considering the case of giving the promotion to the applicant as the period of punishment is over the application is otherwise dismissed.



Member-A



Vice-Chairman

Allahabad Dated: 15.4.93

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