

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

Registration O.A. No. 1252 of 1992

Raja Ram Diwakar ... .. Applicant.

Versus

Union of India  
and others ... .. Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. K. Obayya, Member (A)

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

This application is directed against the order of supersession of the applicant dated 11.3.1991 and also the order dated 28.7.1992 passed by the Administrative Officer Directorate of Pulses Research Institute , Kanpur by which the applicant has been sought to be reverted to the post of Watchman from the post of Security Supervisor. The applicant has approached this Tribunal praying that the respondents may be directed to set aside the order of the applicant's supersession dated 11.3.1991 and also order dated 28.7.1992 by which he has been dislodged from the post of security supervisor and reverted to the post of Watchman. During the pendency of this case, the D.P.C. met and rejected the applicant and selected other persons who according to the applicant were junior to him as Watchman.

2. The applicant was appointed as Watchman in the Central Government in the Directorate of Pulses Research Institute Kanpur by means of the order dated 6.3.1971. In the seniority list his name was at No. 7. By notification issued by the Directorate dated



11.3.1991 on the recommendation of the D.P.C., the Project Director, Directorate of Pulses Research, Kanpur was pleased to allow the supporting staff to cross efficiency Bar in the posts/grades/pay scale/ stage and the dates as mentioned against each of them, and the applicant's name was shown in the said list at Sl. No. 6 ~~and~~ He was allowed to cross efficiency bar w.e.f. 1.12.1990. On 11.3.1991 another list of persons who were promoted, was issued by the aforesaid Directorate. In this list, the applicant's name does not find place which necessarily means that he stood superseded and not recommended for promotion for reasons not disclosed therein or for matter of that in any order order. ~~Persons~~ Persons junior to the applicant namely Lal Singh, Smt. Kamla, Sri Durjan, Raghuvanshi and Prahalad have been recommended for promotion. Vide order dated 11.6.1992, the security officer of the Directorate issued directions that in his absence, the applicant would take charge of the security and would supervise in his place. On 8.7.1992, the Directorate at Kanpur passed an order upon the representation of the applicant that the post of security supervisor was not one of promotion and whenever there would be vacancy, applications <sup>will</sup> ~~shall~~ be invited and the applicant should not venture to continue his correspondence with the department or send application any more. The effect of this order is that Ram Manohar Pal who is serving as Air Conditioner Mechanic in the department, has been posted as Security Officer and upon his appointment as such, the applicant stands dislodged.

Contd ... 3p/-



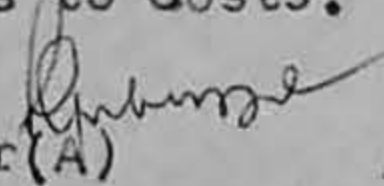
3. The respondents have opposed the application of the applicant and have stated that the applicant was appointed as a Watchman from 17.3.1971. At the time of appointment, the applicant did not pass the Matriculation Examination. He passed the <sup>Said</sup> Examination 1991 as a private candidate and as per revised Rules, the applicant was promoted to S.C.S Grade-II post in the pay scale of Rs. 775-1025 w.e.f. 31.12.1992. The D.P.C. considered his name for promotion but did not find him fit for promotion and that is why he was not promoted. The criteria of promotion from one scale to another amongst group-D post is 'Seniority-Cum-Fitness' and not education qualification. Sri Ram Manohar Bal, Technical Assistant, a Group-C employee has been assigned the work of assisting the security officer in addition to his own duties in place of Sri R.P. Singh, a group-C employee without any extra remuneration vide office order dated 16.7.1992. At the time of meeting of D.P.C. in the month of March, 1991 the applicant had not passed High School Examination, he passed the <sup>Said</sup> High School Examination thereafter. The department has placed before us the rules which are in existence and according to which, this supporting staff post is a Non-selection Post.


4. From the fact, it is evident that the applicant's service record was quite satisfactory and that he was not unsuitable and his unsuitability was adjudged ignoring his experience on the ground that he has not passed the Matriculation Examination at that time. He has <sup>admittedly</sup> been subsequently promoted. <sup>in January 1993 with effect from 1.9.93</sup> The plea that



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he was not found fit by the D.P.C. which found ~~him~~ him fit for crossing the Efficiency Bar a day earlier, obviously unsustainable and off the record. If the passing of the matriculation examination is a bar and the applicant who was fully suitable and has now been promoted, his promotion, obviously, will date back from the date he passed the Matriculation Examination. Thus the promotion of the applicant which has come because of his seniority and not being unfit, for the same, his promotion could not have been withheld. If the Matriculation was ~~of~~ the bar and the applicant having been promoted, his promotion will be deemed to be with effect from the date, he has passed the Matriculation Examination. ~~Thus,~~ With the above direction that his promotion will now date back from the date he has passed the High School Examination, and his seniority will be adjudged accordingly, this application stand disposed of finally. No order as to Costs.

  
Member (A)

  
Vice-Chairman

Dated: February, 1993.

(n.u.) 4 March 1993