

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 26th DAY OF MAY 1997

Original Application No. 1724 of 1993

HON.MR.JUSTICE B.C.SAKSENA,V.C.

HON.MR.D.S.BAWEJA, MEMBER(A)

Laljee Prasad son of Shri Kishore Prasad
at present posted as Sorting Assistant in
R.M.S Varanasi Cantt. resident of
House No.6, P & T Colony,
Maqbool Alam Road, Varanasi.

...Applicant

By Advocate Shri N.N. Lahiri

Versus

1. Union of India through the Secretary
Department of Posts, Dak Bhawan
Delhi.
2. Senior Superintendent "A" Division,
Allahabad.
3. Post Master General, Allahabad
Region, Allahabad.

... Respondents

By Advocate Shri N.B. Singh

O R D E R (reserved)

JUSTICE B.C.SAKSENA,V.C.

Through this OA the applicant has sought a direction
to be issued to the respondents to promote him w.e.f.
28.3.92, the date from which two of his juniors were
promoted to the next higher grade of Rs.1400-2300 under
Time Bound One Promotion Scheme. He has also prayed for
consequential relief of being paid the differences
between the pay which the applicant has now been receiving
and the pay which the applicant would have received had
~~his~~ his promotion to the next higher grade not been
illegally withheld.

2. The applicant's case is that he belongs to Scheduled caste community and was appointed as Sorting Assistant in R.M.S. Varanasi on 1.6.1978. He became eligible on 1.6.88 under the time bound one time promotion scheme to have been considered for promotion to the next higher scale pf Rs.1400-2300 i.e. lower selection grade. On the plea that the applicant was undergoing punishment the Selection Committee did not approve his name. The respondents have taken ~~the~~ this plea in their counter affidavit. The factual position which emerges from the pleadings on record is that by an order dated 13.8.91 a punishment of withholding of increment for a period of three months without cumulative effect, from the date of accrual of the next increment, was imposed on the applicant. The order dated 13.8.91 is Annexure A-4. The applicant has not indicated the date of his next increment. From Annexure A-5, which is copy of representation made by him, we find the said date to be 1.6.92. On the basis of the recommendation of the DPC orders for promotion w.e.f. 28.3.92 promotion of two of his juniors alongwith others was passed by an order dated 27.3.92. A copy of the said communication is Annexure A-2. In the last paragraph of the said memo it was stated that " the case of Laljee Prasad SA Varanasi(S/C) was considered by DPC but on account of currency of punishment his name could not be approved. Obviously, since the punishment of withholding of increment was provided to be operative from the date of next increment i.e. 1.6.92, It would be evident that the punishment which came to be imposed by letter dated 13.8.91 had not become operative or current. The applicant's candidature was illegally and on unjustifiable ground not ~~to~~ ~~considered~~.

Asch

:: 3 ::

3. The applicant has also taken the plea on the basis of D.G. P&T's letter dated 19.5.94 which has been quoted in para 4.15 of the OA that "stopping of increment do not constitute a bar to the promotion of the official, provided on the basis of overall assessment of his record of service, the DPC recommends his promotion to the next higher post." The respondents in their counter affidavit have indicated that it involves legal question which will be replied at the time of hearing of the petition. We pointedly asked the learned counsel for the respondents what is his reply to the plea taken in para 4.15. The learned counsel for the respondents failed to make any submission. Apart from the question whether or not the punishment of withholding increments which was imposed on the applicant was current when the DPC met the position would be that the DPC was required to consider the applicant on the basis of overall assessment of record of his service and to have recommended his promotion to the next higher post. The respondents in their pleadings deliberately avoided to state what the recommendations of the DPC were but from what has been averred it is clear that the DPC had not approved the name of the applicant on account of currency of punishment. This reason is clearly untenable. The respondents in their counter affidavit have stated that the applicant was considered for promotion by the DPC after the currency of punishment and he was promoted to the next grade vide order dated 6.8.92. Thus the dispute between the parties has narrowed down. The relief to be granted to the applicant would be for promotion w.e.f. 28.3.92 and not from 6.8.92.

:: 4 ::

4. The OA accordingly succeeds and is allowed. The respondents are directed to treat the applicant as having been promoted w.e.f. 28.3.92 to the lower selection grade of Rs.1400-2300 under the Time Bound One Promotion Scheme and to pay him the arrears of salary and allowances which accrued to him accordingly on the said scale of Rs.1400-2300. The applicant will also be entitled to seniority on the basis of his promotion being w.e.f. 28.3.92. Parties shall bear their own costs.

S. Rangarao
MEMBER (A)

B. Chakravarthy
VICE CHAIRMAN

Dated: May 26th 1997

Uv/