

Open Court.

Central Administrative Tribunal,  
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 17th Day of October, 2000

Coram: Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

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

Original Application No. 817 of 1993.

J.N.L. Das son of Sri R.K. Das,  
resident of 30, Old Allahpur,  
Allahabad.

. . . Applicant.

Counsel for the Applicant: Sri N.L. Srivastava, Adv.

Versus

1. Union of India,  
Ministry of Textile, New Delhi.
2. Development Commissioner (H.)  
(Handicrafts) Ministry of Textiles  
West Block No. 7 R.K. Puram,  
New Delhi.

. . . Respondents.

Counsel for the Respondents: Sri Amit Sthalekar, Adv.

Order ( Open Court)

(By Hon'ble Mr. S. Dayal, Member (A.))

This application has been filed for a  
direction to the respondent No.2 to regularise  
the services of the applicant as Store Keeper  
with effect from 1.10.80 i.e. the date of joining  
of the applicant as Store Keeper.

2. The case of the applicant is that he was

initially recruited as Store Keeper cum Accounts Clerk vide order dated 17.1.76. He was promoted as Store Keeper with effect from 30.8.80 on purely temporary and adhoc basis. He continued to work on this post till he <sup>was</sup> regularised by order dated 28.8.91 pursuant to recommendations of D.P.C. Group 'C' with effect from 10.5.91. The applicant has claimed that certain officials working as Store Keeper cum Accounts Clerk were allowed regularisation on the said posts of Store Keeper cum Accounts Clerk with retrospective effect by order dated 5.4.91. The applicant has also claimed that certain other officials were promoted as Store Keeper by order dated 5.12.95 again with retrospective effect.

3. We have heard the learned counsel for the applicant as well as respondent and perused the record.

4. Learned counsel for the respondents has argued that mode of recruitment for the post of Store Keeper cum-Accounts Clerk under the group scheme was 90 percent through direct recruitment and 10 percent through departmental examination from amongst group 'D' employees whereas the recruitment of the Store Keeper was 100 percent by promotion. It is claimed that order dated 5.4.91 regularising the services of adhoc store keeper cum Accounts Clerk was in respect of direct store keeper/Accounts Clerk and had no relevancy to the post of Store Keeper.

5. The learned counsel for the respondents has also brought to our attention ~~to~~ the fact



that eight years of regular service in the grade of Store Keeper cum Accounts Clerk in the scale of Rs. 260-400 was required for being eligible for promotion to the post of Store Keeper as per Recruitment rules for the post of Store Keeper notified on 22/28.6.1980.

6. The learned counsel for the respondents has also drawn attention to the averments made in paragraph 11 of the counter reply that no Store Keeper-cum- Accounts Clerk, junior to the applicant had been promoted to the post of Store Keeper in supersession of the applicant. Lastly the learned counsel for the respondents has contended that the applicant could not claim promotion to the post of Junior Accountant as there were no vacancies in the cadre and the post of Junior Accountant requires eight years of regular service for promotion on the post of Store Keeper and the recruitment rules for the post of Store Keeper were notified on 22/28.6.80.

7. We have considered the contentions of learned counsel for the respondents. It is true that the applicant requires eight years of regular service on the post of Store Keeper-cum- Accounts Clerk and would have completed the period of service for eligibility on 17.1.84. However, we are not able to understand as to why it took the respondents as long as eleven years in considering the applicant for promotion when the recruitment rules for the post of Store Keeper existed

from the year 1980 onwards. It is also not understood as to why discrimination was made by the respondents in promoting certain officials named in order dated 5.12.95 (Annexure R.A.-2) namely SriShankar Singh, Sri S.T. Sadappa, Sri Parasar Jha, Sri B.K. Thakur, Sri D.D. Chattopadhyay and Sri M.C. George by order dated 5.12.95 with retrospective effect from 9.3.87, 9.3.87, 10.3.87, 24.3.87, 13.4.87 and 16.4.87 respectively and not promoting the applicant although posts of Store Keeper existed on which the applicant had been serving for the last several years. The retrospective effect has clearly been given because the said Store Keepers were working on adhoc basis continuously. There was no reason as to why the applicant could have been discriminated by not being considered for promotion with effect from any date prior to 28.8.91.

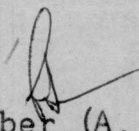
8. It is true that recruitment rules make promotion subject to seniority tempered by merit or merit tempered by seniority depending on whether promotion is to be made by non selection or selection mode. It is also laid down that when promotion is subsequently given to a senior, it is to be given from the date promotion was given to his immediate junior. However, these do not sanctify non consideration for promotion when recruitment rules exist, vacancies are there to be filled and officials are there in feeder cadre to be considered for promotion. The delay in promotion under such circumstances is arbitrary.

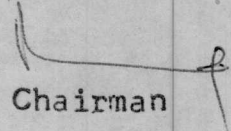
9. In the case before us the applicant was  
entitled to be considered for promotion after completion



of eight years of service as<sup>st</sup> Store Keeper-cum-Accounts Clerk on 17.1.84 along with other such officials who were made to work on adhoc basis and who were senior to the applicant.

10. Under the circumstances we consider it necessary to direct the respondents to consider the applicant for promotion along with persons officiating on adhoc basis and senior to him with retrospective effect and promote them from the date when they are considered fit for promotion by a review D.P.C. The compliance of this order shall be made within a period of three months from the date a copy of this order is filed before the respondents. There shall be no order as to costs.

  
Member (A.)

  
Vice Chairman

Nafees.