

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 07th day of March 2001.

Original Application no. 1313 of 1994.

Hon'ble Mr. S.K.I. Naqvi, Judicial Member

Hon'ble Maj Gen K.K. Srivastava, Administrative Member

Sri Harbhajan Singh, S/o Late Sri Rattan Singh,
R/o Wing No. 3, Barrack No. 19/10, Prem Nagar,
Dehradun at present working as Office Superintendent
Grade 'I' in the Office of the Commandant, Indian
Military Academy, Dehradun.

... Applicant

C/A Sri K.C. Sinha

Versus

1. Union of India represented through the Secretary
to the Government of India, Ministry of Defence
South Block,
NEW DELHI.
2. Directorate General of Military Training,
General Staff Branch (MT - 7)
Army Headquarters, D.H.Q.,
NEW DELHI.
3. The Commandant,
Indian Military Academy,
DEHRADUN.

... Respondents

C/Rs. Km. Sadhana Srivastava

...2/-

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O R D E R (Oral)

Hon'ble Mr. S.K.I. Naqvi, Member-J.

The applicant, Sri Harbhajan Singh, joined as L.D.C. in respondents establishment on 09.05.63 as Scheduled Caste candidate. Vide order dated 01.08.76 he was promoted to the post of U.D.C. which was challenged by Sri Suraj Prakash before Munsif Magistrate, where the case of plaintiff therein was decreed holding that the applicant could not be given benefit of being Scheduled Caste against reservation in single post. The Union of India preferred an appeal against it and the matter ultimately came before the Central Administrative Tribunal, where it was registered as T.A. 1413 of 1986 and decided on 18.05.1990 with the direction as under :-

"However, on going through the record and the evidence on the file and the grounds taken in the memo of appeal we are of the opinion that the judgment of the learned lower court dated 19.9.79, decreeing the suit of the plaintiff does not stand the test of appreciation and scrutiny of evidence and is, therefore, liable to be set aside and findings on issues no. 3, 4 and 9 are given above ^{by us} ~~by us~~ and those findings given by the learned Munsif have been set aside and quashed. The appeal/T.A. is, therefore, allowed and the suit of the plaintiff respondent Suraj Prakash is dismissed with costs on parties."

Consequent to it the impugned order was passed on 03.04.92. According to which "Sri Harbhajan Singh, U.D.C., was due for promotion as Office Supdt Grade II wef 03.12.83 and found fit by DPC for that matter but

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for matter regarding his promotion as UDC being subjudice. The Court (Central Administrative Tribunal) upheld his promotion as UDC in their judgment on 18.05.90. Hence promoted notionally wef 03.12.83 as office Supdt Gde II in the pay scale of Rs. 1400-40-1800-EB-2300 with financial effect from 18.05.1990." Now it has come up during the course of arguments, ^{that} the applicant has ^{only} grievance that he ought to have been given financial benefit from the date of promotion when it was due to him and was given notionally and not from the date of order by the Central Administrative Tribunal. In support of his contention Sri A. Srivastava, learned counsel for the applicant emphasis that this position of 'notional' arose not because of any fault of the applicant but he was deprive to act as such because of litigation in this regard. He has also mentioned that there was no legal bar at any point of time to promote him because there was no interim order staying applicant's promotion. He has also pointed out that the impugned order is dated 03.04.1992 and the financial benefits have been provided w.e.f. 18.05.1990 and that covers the period of notional promotion, but financial benefits ^{have not} ~~has~~ been granted to him like wise and on the same ^{principle} ~~subject~~, he ought to have been given financial benefit through out the period taken as notional promotion.

2. Km. Sadhana Srivastava learned counsel for the respondents mentions that since the matter was subjudice, therefore, the departmental authorities did not touch it till it was finally settled by the Tribunal's order dated 18.05.90.

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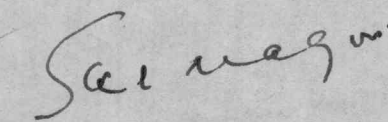
3. Heard learned counsel for the parties and perused the record.

4. We are of the view that the applicant shall not be made to suffer financially for no fault of his and he remained deprived of promotion for no good legal ground and finally it has been adjudicated in his favour that he ought to have been given promotion when it was due to him and on same principle, we ~~are~~ find ~~of the view~~ that he should have been given financial benefits also right from the dates when the notional benefits have been given to the post of office Supdt. Grade II. However,

5. For the above the respondents are directed that financial benefits be allowed to the applicant from the date when applicant became entitled to promotion and given the notional promotion to the post of Office Supdt. Grade II. The admissible arrears in this regard be paid to applicant within a period of 3 months from the date of communication of this order. In case the payment is not made within 3 months, the applicant shall be entitled to interest at the rate of 18% till the date of payment.

6. The O.A. is decided accordingly. No order as to costs.


Member-A


Member-J