

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

...

original Application No. 577 of 1999

this the 15th day of March 2004.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)  
HON'BLE MR. S.C. CHAUBE, MEMBER (A)

Ahmad Husain, M.E.S. No. 45098, Painter H.S.-II G.E.

M.E.S., Cantt., Kanpur.

Applicant.

By Advocate : Sri M. Ahmad.

Verus.

1. Union of India through the Secretary, Ministry of Defence, Govt. of India, New Delhi.
2. Chief Engineer, Lucknow Zone, M.E.S. Cantt., Northern Zone, Lucknow.
3. Commander Works Engineer No.1, Wheelers Barracks Cantt., Kanpur.
4. Sri Lalita Prasad, Painter H.S.Gr.I G.E. M.E.S., Cantt., Kanpur.

Respondents.

By Advocate : Km. S. Srivastava.

O R D E R

MRS. MEERA CHHIBBER, MEMBER (J)

By this O.A., applicant has sought a direction to the respondents to give notional promotion to the applicant on the post of Painter Gr.II w.e.f. 15.10.1984 and further promotion on the post of Painter Gr.I w.e.f. 15.10.1985. He has also prayed that the respondents be directed to consider his case for further promotion on the post of Master Craftsman (MES).

2. Grievance of the applicant in this case is that he was appointed as Painter on 1.6.1966, whereas Sri Lalita prasad was appointed as painter on 1.6.67, therefore,

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naturally applicant was senior than to Sri Lalita prasad as painter. On 12.3.1987, a trade test was conducted for the post of H.S. Gr.II in which applicant as well as respondent no.4 both appeared and in the result, applicant was shown at sl. no. 1, while respondent no.4 was shown at sl. no.3, yet by order the respondent no.4 was given promotion notionally to the post of H.S. Gr.II w.e.f. 15.10.1984 and H.S. Gr.I 15.10.1985, while applicant was promoted as H.S. Gr.II w.e.f. 1.7.1987 only. The grievance of the applicant, thus, is that since he was senior to respondent no.4, he ought to have been promoted earlier than the respondent no.4

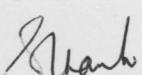
3. Respondents have opposed this O.A. and have explained that even though the respondent no.4 was junior to the applicant and both passed in the trade test for H.S. Gr.II in March'87, but the respondent no.4 was given promotion as H.S. Gr.II because post was reserved for S.T. candidate and since no candidate was available, it was given to Sri Lalita prasad, who happened to be given SC candidate. He was ~~not~~ional promotion as per the Government order because the vacancy was available in H.S.Gr.II w.e.f. 15.10.1984. Similarly, the post of H.S.Gr.I was also reserved for SC candidate as per point no.1 of 40 points roster and Sri Lalita prasad belonged to SC category, he got promotion in accordance with the Government order. Since both these posts were reserved for ST and SC respectively, ~~therefore~~, the post could not be given to the applicant. They have, thus, submitted that the O.A. is bereft of merit, the same may, therefore, be dismissed.

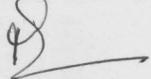
4. We have heard both the counsel and perused the pleadings as well.

5. It is seen that even though Sri Lalita prasad was impleaded as respondent by way of amendment on 8.9.99

but no notice was got issued for respondent no.4, meaning thereby that till date Sri Lalta prasad has not been put on notice, as far as this case is concerned. Even otherwise, applicant has not challenged the order by which Lalta prasad was given promotion to H.S. Gr.II or H.S. Gr-I. Law is well settled by now that no adverse order can be passed behind the back of the individual unless he is put on notice. More-over no relief can be given by the Tribunal, unless the orders are challenged by the applicant and the specific relief is sought for. This petition, infact, is liable to be dismissed on these preliminary grounds itself. However, on merits, <sup>also</sup> we find that the applicant is not entitled to get any relief as prayed for by him because the respondents have specifically stated that the post of H.S.Gr.II was reserved for ST candidate, whereas applicant was a general candidate and the respondent no.4 got it only as a <sup>result of</sup> mutual exchange. Since, admittedly, applicant is a General candidate, he cannot stake his claim for a post which was either earmarked for <sup>ST</sup> by S.T. or S.C. category. Since respondent no.4 has been given promotion against roster point reserved for ST and SC, we do not find any illegality in the orders passed by the respondents. Applicant has merely prayed that he may be given promotion w.e.f. 15.10.84 as painter H.S.Gr.II and H.S. Gr.I w.e.f. 15.10.1985 without challenging the promotion given to Sri Lalta prasad.

6. In view of the above, we find no merit in the O.A. The same is accordingly dismissed with no order as to costs.

  
MEMBER (A)

  
MEMBER (J)

GIRISH/-