

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : this the 14th day of September 2004.

Original Application no. 986 of 1999.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman
Hon'ble Mrs. Roli Srivastava, Member (A)

A.C. Sharma, S/o Sri J.P. Sharma,
R/o Head Post Office Compound,
Kanpur.

... Applicant

Sri
By Adv :/S.C. Dwivedi, Sri R.P. Singh,
Sri S. Kumar

V E R S U S

1. Union of India through the Secretary,
Department of Posts, Ministry of Communication
and Director General (Posts),
New Delhi.
2. Chief Post Master General,
U.P. Circle, Lucknow.
3. Post Master General, Kanpur.
4. Union Public Service Commission through
its Secretary,
New Delhi.
5. Sri B. Vijay Kumar,
C/o B.C. Nayak,
H. No. 661 Reni Ka Extansion,
Horapanahalli Road, Kudligi Beelary,
Kottur (Karnataka).

... Respondents

By Adv : Sri D.S. Shukla
Km. Sadhna Srivastava

O R D E R

Justice S.R. Singh, VC.

Heard Sri S.C. Dwivedi, learned counsel for the
applicant and Km. Sadhna Srivastava, learned counsel for the
respondents.

(Signature)

2. The applicant herein seeks a direction to the respondents to regularise him to the post of Manager, Mail Motor Service (MMS) (down graded Group 'A' Post) and also consider him for further promotion.

Corrected vide
Order dated 11.10.04.
Passed in MA4275/04.

DBG
VC
11/10/04

3. It appears that the applicant was initially appointed as Technical Supervisor Grade I. In 1983 he was given ad-hoc promotion to the post of Manager, MMS General Central Service (GCS) Group 'B' post. He staked his claim for regularisation and selection to Junior Time Scale (JTS) Group 'A'. By the impugned order dated 28.11.91 his claim has been rejected on the ground that there was no provision for regularisation and, therefore, it was not possible to regularise the applicant in GCS, Group 'B' cadre and since the respondents have declined to regularise the applicant in GCS Grade 'B' cadre his claim for promotion to JTS Group 'A' cadre was also rejected.

4. Learned counsel for the applicant has submitted that the applicant was entitled to be considered for regularisation in view of the law laid down by Hon'ble Karnataka High Court in Writ Petition No.35765 of 1998 (S-CAT) between Union of India & ors. Vs. Sri Laxminarayanan & ors decided on 01.07.2002.

5. When the matter came up before the Bench on last date i.e. 06.05.2004, Km. Sadhna Srivastava, learned counsel for the respondents prayed for and was granted time to obtain instructions, if the judgment of Hon'ble Karnataka High Court has been taken to the Hon'ble Supreme Court in SLP. Today, Km. Sadhna Srivastava submits that she could not get any information about the judgment of Hon'ble Karnataka High Court having been taken to the Hon'ble Supreme Court in appeal. However, she does not

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dispute that in view of Hon'ble Karnataka High Court the applicant was entitled to be considered for promotion to GCS Group 'B' cadre i.e. the post of Manager, MMS Group 'B'. The post of MMS was earlier a group 'A' post but it was ^{down} ~~done~~ graded to group 'B' post on ^{* 30.1.1986 *} ~~31.07.1987~~. At the relevant time it was GCS Group 'B' post. Km. Sadhna Srivastava, however, submits that in 1999 the post has again been up-graded and Sri B. Vijay Kumar, respondent No.5 has been appointed in Group 'A' post and in that view of the matter Km. Sadhna Srivastava submits that the applicant cannot be regularised on the post in question.

*Corrected vide
order dated 1.11.99
passed in MA 347/99
B
VJ*

6. Having heard the learned counsel for the parties we are of the considered view that if the applicant was eligible for consideration for promotion to the MMS Group 'B' as it then was in 1991 and found suitable for promotion, in that event question of filling up the post by direct recruitment after it was upgraded to Group 'A' post could not have arisen. Since, according to the judgment of Hon'ble Karnataka High Court the applicant was eligible and entitled for consideration for promotion, we are of the view that ^{* 17.8.99} ~~17.8.99~~ the impugned order dated ~~28.11.1991~~ cannot be sustained. The OA in the circumstances deserves to be allowed in part. ^{* 17.8.99} The order dated ~~28.11.1991~~ is quashed. Respondents are directed to re-consider the applicant for regularisation on the post of Manager, MMS in GCS Group 'B' cadre and in case he is found suitable for promotion, to pass necessary consequential orders including an order regarding applicant's selection to JTS Group 'A' cadre.

7. The OA is accordingly disposed of in terms of the direction. There shall be no order as to costs.

Bhavaswar

Member (A)

Deo

Vice-Chairman

Cor. A. 524. /04

in

O.A. No. 986/99

16.05.06

Hon' Mr. K. B. S. Rajan, A.M.

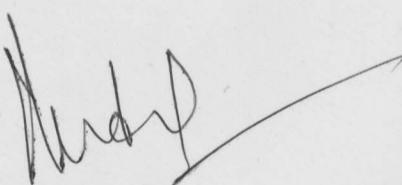
Hon' Mr. A. K. Singh, A.M.

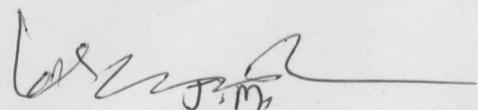
Sri A. C. Sharma, applicant appeared in person.

Sri R. C. Shukla, holding brief of Sri S. Singh, counsel for the respondents.

M.A. No. 5241/04 has been filed for making certain corrections, except grammatical errors (orders have been indicated as order). In respect of all other correction sought for by the applicant, the applicant seeks to slightly change the colour of the order itself, which is not permissible.

In so far as the grammatical mistake is concerned "ejusdem generis" would take care of the situation. Hence no correction or modification is called for. M.A. No. 5241/04 is therefore, rejected.


A.M.



16/5/