

Open Court

**Central Administrative Tribunal
Allahabad Bench, Allahabad**

Original Application No. 731 of 2003

Allahabad, this the 30th day of June, 2009

Hon'ble Mr. Ashok S. Karamadi, Member (J)
Hon'ble Mr. S.N. Shukla, Member (A)

Hari Shanker Yadav Son of Udal Yadav aged about 49 years, resident of Village Gangapur, P.O. Bhadohi, District Sant Ravidas Nagar (Bhadohi).

Applicant

By Advocate: Sri O.P. Gupta

Vs.

1. Union of India through Secretary, Ministry of Textile, Govt. of India, New Delhi.
2. Assistant Director (Administration-X) Office of the Development Commissioner (Handicraft) Carpet Weaving Training and Service Centre, D-84/151, A-M-1 Nagar Nigam Colony, Sigra, Varanasi.
3. Director (Central Area) Office of the Development Commissioner (Handicraft) Central Area Office, Lucknow.
4. Regional Administrative Officer Grade-I Bhartiya Bhoo Vaigyanik Sarvekshan, North Area, Aliganj, Sector 8, Lucknow.

Respondents

By Advocate: Sri B.P. Singh

O R D E R (Oral)

By Ashok S. Karamadi, Member (J)

This application is filed for quashing of the order dated 01.07.2003 passed by respondent No. 2 relieving the applicant from the post of Assistant Instructor from the office of Regional Carpet Store, Ashapur, Varanasi, and further to quash the order of the respondent (un served) declaring the applicant surplus and also order dated 27.06.2003 passed by respondent No. 3.

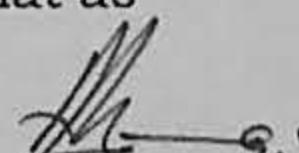


2. The case of the applicant is that even though respondents have declared the applicant as surplus but not according to rules and procedure prescribed for the purpose. It is stated that the respondents have considered the cases of similarly situated employees, as that of the applicant, and they are continuing in the same organization but the respondents have not retained the applicant in the same organization. It is admitted by the applicant that he has given option like the other individuals in the department. Therefore, as per the applicant, arbitrary action is being taken against the applicant. Hence he filed the present O.A. for the aforesaid relief (s).

3. On notice, respondents have filed the counter affidavit and contended that since the applicant has given the option and based on his option, respondents have taken the action and grievance of the applicant is not just as the respondents' department has followed the procedure and taken the action in the light of the Order passed by this Tribunal on 27.03.2000 in O.A. No. 550 of 1999. It is further stated that decision with regard to applicant's case is pending due to pendency of this O.A. Lastly they have prayed for dismissal of the O.A.

4. Today even in the revised call, there is no representation on behalf of the respondents. We have heard Sri O.P. Gupta, learned counsel for the applicant as this matter pertains to the year 2003. Perused the pleadings and materials available on record.

5. It is seen from the earlier order dated 27.03.2000, in the O.A. No. 550 of 1999, that grievance of the applicant was that he was kept in the surplus cell while retaining his juniors in service and the said action of the respondents was arbitrary and contrary to rules. Accepting the said contention, earlier O.A. was disposed of with direction to the respondents to put the applicant in surplus cell only after exhausting in putting his juniors in the said cell. In view of the earlier order, it is clear as contended by the applicant that his juniors were adjusted in the same department even though they have given option along with the applicant. On the other hand, respondents in the communication dated 31.07.2003, stated that as

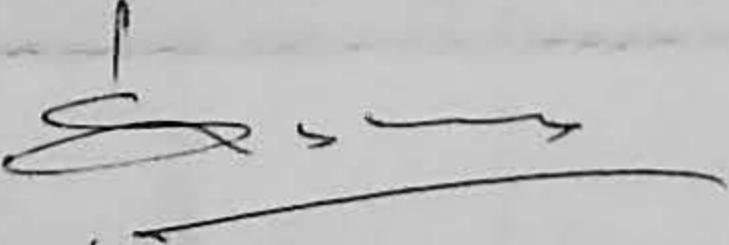
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the matter of the applicant be kept in abeyance due to pendency of this O.A.

6. Having regard to the afore mentioned facts and material on record, it is just and proper to direct the respondents to consider the case of the applicant along with similarly and identically placed employee who were given option and continuing in the same organization. Accordingly, we pass the following final order: -

"The impugned order dated 01.07.2003 passed by respondent No. 2 relieving the applicant from the post of Assistant Instructor from the office of Regional Carpet Store, Ashapur, Varanasi is hereby set aside with direction to the respondents to pass fresh order taking into consideration the relevant rules and the order dated 27.03.2000 passed by this Tribunal in O.A. No. 550 of 1999. It is further directed that till the decision is taken by the respondents on the prayer of applicant, services of the applicant shall not be terminated and he will not be transferred if any of the juniors to the applicant are retained in the respondents' department at Varanasi. Aforesaid direction of deciding the case of the applicant will be complied with within a period of three months from the date of receipt of a copy of this order. Other contentions of the parties are left open."

7. With the above directions, O.A. is allowed. No order as to costs.



[S.N. Shukla]
Member (A)



[Ashok S. Karamadi]
Member (J)

/M.M/