

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 91/90

~~T.A. NO.~~

DATE OF DECISION 10-5-1995

Shri Dilip Nanalal Vadera **Petitioner**

Mr.B.B.Gogia **Advocate for the Petitioner (s)**

Versus

Union of India & Others. **Respondent**

Mr.Akil Kureshi **Advocate for the Respondent (s)**

CORAM

The Hon'ble Mr. N.B. Patel : Vice Chairman

The Hon'ble Mr. K. Ramamoorthy : Member (A)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

NO

Shri Dilip Nanalal Vadera,
Press Information Bureau,
Rajkot.

: Applicant

(Advocate: Mr.B.B.Gogia)

Versus

1. Union of India
Through:
Its Secretary,
Department of Information and
Broadcasting,
Government of India,
New Delhi.
2. The Deputy Principal Information
Officer, Press Information Bureau,
Government of India,
C.G.O. Building, Annexy,
101, M.K.Road,
Bombay-400 020.

: Respondents

(Advocate: Mr.Akil Kureshi)

: J U D G M E N T :

O.A.91/90

Date: 10.5.1998

Per: Hon'ble Mr.N.B.Patel

: Vice Chairman

The applicant seeks a declaration that the order of his reversion from Clerk^{Gr II} to the post of Daftary, vide order Annexure A-4 dated 1.3.1989, is illegal and void and that he continues in service as Clerk Grade-II. He also seeks all benefits consequent upon the declaration of illegality of the order Annexure A-4. Briefly stated, the case of the applicant is that he was initially appointed as Daftary in Press Information Bureau at Rajkot by an order dated 4.9.1976 (Annexure A-1) and that he was promoted as Clerk Grade II on adhoc basis in different spells from 5.3.1978 to 3.5.1983 and, ultimately, he was promoted on a regular basis to the post of Clerk Grade-II by order dated 18.8.1983 (Annexure A-3) against a clear vacancy in the post of Clerk Grade II. The applicant

then avers that, all of a sudden, by the impugned order Annexure A-4, dated 1.3.1989, he was reverted from the post of Clerk Grade II to the post of a Daftary without giving him any opportunity of hearing and without there being any reason for reverting him as Daftary.

2. The respondents resist the application on the contention that the applicant was not appointed on a regular basis or against a regular vacancy to the post of Clerk Grade II but he was promoted to Clerk Grade II post from the post of Daftary only as an adhoc measure as a temporary vacancy had arisen in the cadre of Clerk Grade II. The respondents have elaborated the circumstances in which the applicant was promoted as Clerk Grade II by stating that there was one Clerk Grade-I post in the Rajkot Office and one Mr. U.A. Koshti was occupying that post and, at the same time, one Mr. D.K. Patel was occupying a Clerk Grade II post in the office of the Press Information Bureau at Ahmedabad; that the said Mr. D.K. Patel went on deputation to the State Government Office with the result that one post of Clerk Grade II was required to be filled up at Ahmedabad Office for the deputation period of Mr. D.K. Patel; that, at that stage, Mr. Koshti who was occupying Clerk Grade I post at Rajkot made an application for his transfer to Ahmedabad for his personal reasons stating that he was prepared even to be ^{reverted} ~~repatriated~~ to the post of Clerk Grade II which had temporarily ^{fallen} vacant as a result of deputation of Mr. D.K. Patel; that this request made by Mr. Koshti was accepted and he was reverted to Clerk Grade II post and was posted at Ahmedabad Office in place of Mr. D.K. Patel with the result that one Mr. A.G. Patel, who was occupying Clerk Grade II post at Rajkot, was promoted to the post of Clerk Grade I which had fallen vacant on

the transfer and reversion of Mr. Koshti; that the post which had thus fallen vacant on the promotion of Mr. A. G. Patel was filled up, on a temporary and adhoc basis, by promoting the applicant ^{from} ~~on~~ the post of Daftary to the post of Clerk Grade II. It is thus emphatically denied that the promotion, which was given to the applicant by the order Annexure A-3 dated 18.8.1983, was on a regular basis or was against a regular vacancy in the cadre of Clerk Grade-II. It is contended that the arrangement of adhoc promotion of the applicant to Clerk Grade-II post was a purely temporary and adhoc arrangement till Mr. D. K. Patel ^{from} ~~to~~ return from deputation to the State Govt. to the Press Information Bureau. It is further contended that, ultimately, Mr. D. K. Patel continued on deputation to the State Govt. for a long time and it was decided to call him back somewhere in December 1989 and, therefore, the impugned order Annexure A-4 dated 1.3.1989 was passed reverting the applicant to the post of Daftary w.e.f. 28.2.1989.


3. The neat question which, therefore, arises for determination in this case is whether the promotion of the applicant, by the order Annexure A-3 dated 18.8.1983, was a regular promotion or was only an adhoc promotion meant to continue till the repatriation of Mr. D. K. Patel from the State Government to the Press Information Bureau. It is true that, in the order Annexure A-3 by which the applicant was promoted to the post of Clerk Grade II, ^{itself} ~~itself~~ not specifically stated that he was promoted ~~on~~ an adhoc basis, as such promotion was necessitated by the deputation of Mr. D. K. Patel to the State Govt. and the consequent chain of events namely; transfer and reversion of Mr. Koshti to Ahmedabad ^{and} ~~the~~ the promotion of


Mr.A.G.Patel from Clerk Grade II to Clerk Grade-I. However, the averments in the reply in this connection are not controverted in the rejoinder filed by the applicant which means that the applicant's promotion to Clerk Grade-II post was consequent upon Mr.D.K.Patel's deputation to the State Government and Mr.Koshti's reversion to Clerk Grade II and transfer to Ahmedabad and the promotion of Mr.A.G.Patel from Clerk Grade II to Clerk Grade-I. We have, therefore, no hesitation in holding that the picture which is given in the respondent's reply as to the circumstances in which the applicant was promoted to the post of Clerk Grade-II is an absolutely correct picture. It then follows that the applicant has made a mis-representation in stating that his promotion to the post of Clerk Grade-II was a regular promotion against a clear vacancy. It was only a temporary and adhoc promotion to him consequent upon the situation which had arisen from the deputation of Mr.D.K.Patel to the State Govt. and the resultant chain of events. The mere fact that, in the order Annexure A-3, it is not clearly stated that the applicant's promotion was purely adhoc does not alter the position that it was not a promotion against a clear vacancy or on a regular basis. Furthermore, the order Annexure A-3 clearly states that Shri D.K.Patel was promoted as Clerk Grade-I on ad hoc basis and "consequently" the applicant is promoted as Clerk Grade-II. Even the fact that Mr.D.K.Patel "managed" to continue on deputation to the State Govt. for a period of six years does not alter the fact that the promotion of the applicant was on an ad hoc basis and was meant to continue till Mr.D.K.Patel returned to the parent department. The mere length of period for which the

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applicant occupied the post of Clerk Grade II does not convert his promotion into a regular promotion. It was only the good fortune of the applicant that Mr.D.K.Patel "managed" to continue on deputation to the State Govt. for a long period and thereby Mr.A.G.Patel and the applicant got the benefit of promotion to higher post for a long period. It is nowhere contended by the applicant that, while he was reverted to the post of Daftary, anybody junior to him was continued on the post of Clerk Grade II or that, after his reversion to the post of Daftary, anybody junior to him was promoted to the post of Clerk Grade II. There is also no question of any opportunity of hearing having had to be given to the applicant before his reversion, in the circumstances of the case. The applicant was aware or at least must be presumed to be aware that he was getting only a fortuitous benefit of promotion consequent upon the deputation of Mr.D.K.Patel to the State Govt. and the chain of events consequent thereupon.

4. In the result, we find no substance in the challenge posed by the applicant to the impugned reversion order. The O.A. is, therefore, dismissed. However, there will be no order as to costs.


(K. Ramamoorthy)
Member (A)


(N.B. Patel)
Vice Chairman