

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA NO. 559 OF 1996

Present : Hon'ble Mr. Justice S.N.Mallick, Vice-Chairman
Hon'ble Mr. S. Dasgupta, Member (A)

K.Gopal Nair
Chowkidar/Khansama,
O/o Asst. Garrison Engineer,
Bengdubi, Dist. Darjeeling

VS

- 1.. Union of India through the
Secretary, Ministry of Defence,
New Delhi
- 2.. Commands Works Engineer,
Bengdubi Area, P.O. Bengdubi,
Dist. Darjeeling
- 3.. The Chief Engineer,
Eastern Command, Fort William,
Calcutta-700 021
- 4.. The Engineer-in-Chief,
Army Head Quarters,
P.O. Kashmir House, New Delhi-11
- 5.. The Garrison Engineer, M.E.S.,
Bengdubi, Dist. Darjeeling
- 6.. The Controller of Defence Accounts,
Patna, Bihar
- 7.. The Asst. Garrison Engineer(E&M),
Bengdubi, Dist. Darjeeling

..... Respondents

For the applicant : Mr. S.N.Roy, Counsel
Ms. Sutapa Banerjee, Counsel

For the respondents : Mrs. K. Banerjee, Counsel

Heard on : 20.4.98 : Order on : 01.5.98

O R D E R

S. Dasgupta, A.M.:

The applicant herein is aggrieved by his reversion from the post of Motor Pump Attendant to his substantive post of Khansama/Chowkidar. Through this application filed u/s 19 of the Administrative Tribunals Act, 1985, he sought a direction upon the respondents to restore him to the promotional post with all consequential benefits.

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2. The facts of the case lie on a very short compass. The applicant was appointed as Khansama/Chowkidar in the Military Engineering Service in 1967. He was allowed to appear in a trade test for promotion to the post of Motor Pump Attendant and having been found fit, he was promoted to that post with effect from 4.1.78 on probation for two years. It also appears that he satisfactorily completed the probationary period on expiry of two years. But by an order dt. 29.4.80 he was reverted to the post of Khansama/Chowkidar on the ground that the said post was not in the line of promotion for Khansama/Chowkidar.

3. The facts averred in the application disclose that the applicant had earlier challenged his reversion before the High Court of Judicature at Calcutta. A Single Judge Bench of the High Court had dismissed the application on the ground that the promotion of the applicant was in contravention of the recruitment rules as embodied in the Standing Instructions. An appeal before a Division Bench also failed. It appears that another person who was similarly promoted from the post of Khansama/Chowkidar to the post of Motor Pump Attendant and who was also reverted on the error being detected, had filed an application before this Tribunal through OA 492 of 1992 (Himanshu Barua -vs- UOI & Ors) and in the said application, the Calcutta Bench of the Tribunal took a contrary view and allowed the application by an order dated 21.11.95.

4. The applicant is now seeking benefit of the aforesaid judgement of the Tribunal being similarly circumstanced.

5. The appeal filed by the applicant before the Division Bench of the High Court of Calcutta was dismissed as far back as on 22nd December, 1988. This order of the Division Bench of the High Court has become final and no further appeal was filed against it. The decision of the High Court will, therefore, operate as res judicata in so far as the

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applicant's claim for restoration to the promotional post is concerned. The fact that the Calcutta Bench of the Tribunal had allowed the application in a similar case, cannot come to any assistance to the present applicant, that too so many years after his appeal before the Division Bench of the High Court was dismissed.

6.. The present application is wholly barred by the principle of res judicata. It is accordingly dismissed summarily at the stage of admission itself. There will be no order as to costs.



(S.DASGUPTA)!

MEMBER(A)



(S.N.MALLICK)

VICE CHAIRMAN