

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Lucknow this the 7th day of April, 1995

O.A. No. 220/90(L)

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. V.K. SETH, MEMBER (A)

Tilak Raj Arora, aged about 54 years, son of late Shri Nihal Chand Arora, resident of 364-A, Subhash Mohal, Sadar Bazar, Lucknow Cantt.

Applicant

versus

1. Union of India through Secretary Ministry of Defence, Govt. of India, New Delhi.
2. The Director General, Defence Estates, Ministry of Defence, R.K. Puram New Delhi.
3. The Director, Defence Estates, Ministry of Defence Central Command, Lucknow Cantt.

Respondents.

O R D E R (ORAL)

HON. MR. JUSTICE B.C. SAKSENA, V.C.

When the case was called out, no one responded on behalf of either of the parties. We have gone through the pleadings.

2. The applicant through this O.A. has challenged the order dated 14.5.90 contained in Annexure 8 by which his representation, to be retained at Lucknow on the post of Technical Assistant has been rejected. The applicant has further prayed that the respondents be directed not to post any person as Technical Assistant in the vacancy caused by posting of Shri H.C. Kharidhal, Technical Assistant in the office of Director Defence Estates, Central Command, Lucknow. The applicant has also prayed that the

respondents be directed to post him as Technical Assistant at Lucknow. Detailed Counter Affidavit has been filed on behalf of the respondents. The applicant filed Rejoinder Affidavit. The respondents have further filed Supplementary Counter Affidavit to meet the new facts indicated in the Rejoinder.

3. The applicant was working as U.D.C. A Departmental Promotion Committee was held on the 17th of January, 1990 for framing a panel for promotion to various posts including that of Technical Assistant. The applicant was found fit to be promoted to the post of Technical Assistant but he was posted outside Lucknow. The applicant earlier filed O.A. before this Tribunal challenging the order for his posting outside Lucknow on promotion. That O.A. was numbered as O.A. 155/90(L) and it was disposed of with the direction to respondent No. 2 to consider and dispose of the applicant's representation dated 2.3.90 contained in Annexure No. 3 to that O.A. That representation was considered and rejected by the order dated 18.5.90 ~~and rejected by the order dated 18.5.90~~ k&x5x90, copy of which is Annexure 8. It has been indicated in the said order that the post of Technical Assistant is selection post and promotion to the selection post is made on the basis of performance appraisal of officials as reflected in their A.C.Rs. It was also indicated that since they failed to make grade in the previous years and his performance, according to the D.P.C, was not upto the mark, he was not selected. It has also been indicated that the officer and staff of Defence Estates Organisations /all <sup>have</sup> India liability for postings and transfer, hence the applicant was to be transferred out side the Lucknow. It is also indicated that the post of Technical Assistant at Lucknow ~~was~~ already

filled up by order dated 11.4.90.

4. Counter Affidavit on behalf of respondents virtually proceeds on the same basis and it has been indicated that on being empanelled for the post of T.A., the applicant as per requisite executive instructions, was to be posted outside the place where he had been working. It has also been indicated in the Supplementary Counter Affidavit that the applicant refused his promotion and therefore was allowed to continue as U.D.C. at Lucknow. In the O.A. a plea has been taken that the refusal for promotion by the applicant in his representation dated 2.3.90 was limited to contingency of his being posted outside Lucknow, it cannot be treated as refusal for promotion if he is at Lucknow itself. The respondents, in their counter affidavit have reproduced the refusal given by the applicant and have also indicated that the order of promotion dated 16.2.90 was modified vide order dated 11.4.90 and the applicant was allowed to continue as U.D.C. at Lucknow. The order rejecting the representation on the basis of the grounds indicated therein does not appear to be either arbitrary or against any statutory provisions. Thus, it does not call for any interference. O.A. is accordingly dismissed. Parties shall bear their own costs.

MEMBER (A)

VICE CHAIRMAN

Lucknow: Dated: 7.4.95

Shakeel/