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CHIEF ADMINISTRATIVE TRIBUNAL

LOCAL BENCH

LOCAL

Q.A. No. 1568/86

(C.S. 92 of 83)

Shri Harshar Sharma

Petitioner

versus

Union of India & others

Respondents.

Hon. Mr. Justice S.C. Privastava, V.C.

This is a transferred case under section 29 of the Administrative Tribunals Act, 1985. The applicant filed a suit in the court of Munsif Sadar, Faizabad praying that it may be declared that the applicant is entitled to draw D.D. w.e.f. 1.11.76 drawing pay at the rate of Rs 432 with subsequent increments due on 1.11.77, 1.11.78, 1.11.79, 1.11.80 and 1.11.81 in the time scale of Rs 260-480 and consequential relief all emoluments be also awarded and further it may be declared that the plaintiff be deemed to be promoted to I.S.C. cadre w.e.f. the date his juniors S/D Harinarain Privastava and Abdul Gaffar were promoted in cadre of lower selection grade in the scale of Rs 425-640 on adhoc and regular basis with all monetary benefits attached to the post entitling the plaintiff to claim and draw the difference of emoluments of which he would have drawn in the scale of Rs 425-640 emoluments drawn by plaintiff in scale of Rs 260-640 with interest at the rate of 14% in favour of the plaintiff against the defendants and the consequential benefits be also given.

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2. The applicant was working as telephone Operator in the year 1974 and thereafter also. He was issued a charge sheet on 23.9.1975 and the charge against him was that he put the Department in the loss of revenue for passing free call from LTC-26 to VS 64451 1½ minute according to his own statement and thus he committed misconduct and negligence of duty by connecting an unbooked and free call in favour of some Mr. I. I. Sinha and causing leakage of revenue to the department. In the mean time applicant's promotion and monetary benefits were withheld and ultimately vide order dated 15.2.77 a penalty of recovery of charges for an urgent personal particular call from Faizabad to Varanasi from the applicant for one unit duration duration was awarded by taking a lenient view of the matter. The applicant, feeling aggrieved against the same, filed appeal which was rejected and an adverse entry was made in the character roll of the applicant for the year 1976-77 and communicated to him on 31.5.77 which was as follows:

" The penalty of recovery of urgent particular personal call from Faizabad to Varanasi of unit duration was imposed vide S.P.O.O. Fy No.2.121 /1976/15 dated 15.2.77 "

The applicant was due to cross E.D. from 1.11.76, but the case was kept pending taking benefit of rules which lays down that during pendency of proceedings E.D. cannot be allowed to be crossed, while according

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to the applicant punishment of recovery is no bar for promotion, according to O.P. No. 22011/2/78-Estt (A) dated 19.2.77 of Department of Personnel and Administrative Reforms and G.I.C.S. Department of Personnel and I.C. No. 22011/6/75-Estt (A) dated 30.12.76. Even then the applicant was not allowed to cross L.D. even though the disciplinary proceedings were finalised on 15.2.77 and vide order dated 14.1.80 he was allowed to cross L.D. at the stage of 420/- w.e.f. 1.11.78 and vide order dated 30.9.80 annual increments were granted to the applicant raising his pay from Rs 420 to 432 from 1.11.78 and from Rs 432/- to 444/- w.e.f. 1.11.79. The grievance of the applicant is that he was entitled to cross L.D. on 15.2.77 and on conclusion of the departmental disciplinary proceedings in which punishment of recovery was imposed. Even in fixing the pay/^{on 1.11.78} rules were violated. His pay should have been fixed at the stage of 456/- instead of 432/- on 1.11.78. Adhoc promotions were made and juniors to the applicant like S/O Abdul Jaffer and Her W. rain Privetive who were at serial Nos. 20 and 23 respectively were promoted while the applicant who was at serial No. 14 was not considered and not promoted. The applicant, according to him, should have been promoted on adhoc basis from 1.2.79 and entitled to pay of Rs 470/- w.e.f. 1.2.79. But no action was taken for making selection for filling up the vacancies was done in the year 1981. In that list the applicant was placed at serial No. 34 on the basis of which selection was made and he is at serial No. 383. Thus, according to the applicant rules

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directed to cross the S.S. of the applicant w.e.f.

1.11.78 as the applicant has become entitled to cross S.S. on 1.11.78. If he was allowed to do so, the pay of the applicant would have been fixed at the stage of 456 instead of 432 on 1.11.78 which is based on the fact that the applicant was 11 years to cross S.S.

In view of the fact that the applicant was granted promotion the applicant was eligible for adhoc promotion with effect from 1.2.79 as has rightly been contended. In view of adhoc promotion, his case for promotion as L.S.G. ought to have been considered.

This application is allowed to the extent that the respondent is directed to fix the pay of the applicant at Rs 456/- instead of Rs 432/- on 1.11.78 and to grant him promotion w.e.f. 1.2.79 though notionally and not actually and the actual promotion will be given with effect from the date he will be actually promoted to L.S.G.. With these observations the application is disposed of finally with no order as to costs.


V.C.

Shakeel/

Lucknow: Dated: 10.9.92