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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 836 of 1987

Versus

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A)

(By Hon'ble Mr. Justice U.C.Srivastava,VC)

The writ petition No. 4126 of 81 was filed in the High Court, thereafter this writ petition was sent from the High Court in this tribunal, which was numbered as T.A. 836 of 1987. The applicant has prayed for quashing of Annexures 2 and 3 and has also prayed for a mandamus commanding them to consider the applicant as eligible for promotion to the post of Administrative Officer Grade-II taking their entire service rendered by them on the post of Office Superintendent Grade-II and not to make promotion and not to fill the vacancies of Administrative Officer Grade II from any other source and in any other manner. Annexure 2 is the copy of E-in-C's Branch Army Headquarters DHQ PO dated 20 April 81 addressed to CE CC Lucknow and others, pointing out that "due to peculiar circumstances prevailing, departmental candidates can not be promoted to AO Gde-II during the next 2 to 3 years time since none will become eligible for promotion till then. Annexure-3 is yet another copy of the another letter dated 7 May, 1981 pertaining to the question of regularisation/counting of ad hoc service rendered by office Superintendents Grade II for the promotion to AO II stating therein that the period of ad hoc promotion is not to be counted because the matter is pending for the last ~~thoso~~ many

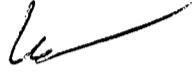
years, the applicant no. 1 has retired from service and the applicant no. 2 it appears is still in service. According to the applicants their exclusion from consideration for further promotion is arbitrary and discriminatory and they ought to have been taken against the vacancies of the year in which they became eligible for promotion and the panel which was earlier prepared have been set aside by the High Court on technical grounds and in drawing the fresh panel, the original position in respect of the applicants ought to have been maintained and the exclusion of the applicants from consideration for promotion to the post of Administrative Officer Grade -II amounts to punishment.

2. No reply to this application has been filed by the respondents, but at the applicant's case itself does not merit any consideration in respect of all the reliefs. The writ petition was earlier filed before the High Court which set aside the panel of 1975 and permitted the respondents to draw fresh panel without attaching any in-eligibility to the applicant before it and without making any observations adverse to them. The fresh panel was prepared, the applicant's claim was excluded, the grievance of the applicant is that in case, it could have been prepared in respect of year wise vacancies, the applicant would have also got the promotional post. As no reply has been filed by the respondents, the correct factual position can not be ascertained. Accordingly, the respondents are directed to consider the question of appointment of those who were included in panel year wise and in case the applicant's eligibility in the particular

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~~in the~~ panel, the position is higher, they will be given notional promotion even if the retrospective effect and they will be entitled to pre and post retirement benefits. With these observations, the application is disposed of finally. No order as to the cost.


Member (A)


Vice-Chairman

Lucknow Dated: 16.11.1992.

(RKA)