

O. A. №. 889/87.

· Vs .

Hon: Mr. K. Obayya, A.M.

The applicant was employed as Stores-man in the year 1964 in the office of Garrison Engineer(East), Lucknow. According to the applicant, from the year 1964 he was required to act as Supervisor. Notwithstanding the fact that he was required to act as Supervisor, he was never given the letter of appointment as Supervisor and he never received salary as Supervisor although he continued to work as Supervisor. As such after approaching the departmental authorities and Labour Court, he filed this application before this Tribunal. The applicant has prayed that it may be declared that he is entitled to get appointment to the post of Supervisor Grade-II w.e.f. 1-1-66 and senior to all those who have been appointed as Supervisor Gr.II, after 1-1-66. The next promotional post is Storesman/  
is

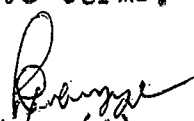
Store-Keeper Gr. II


2. There is no doubt that the applicant was officiating as Supervisor Gr.II, from the year 1966 which is evident from the certificate which has been placed on record. Even though recommendation of the concerned officer was given, but the real promotion and pay as Supervisor was not given to him, which lead him to file Writ Petition before the High Court in the year 1979 (No.2359 of 1979). The writ was dismissed in September, 1980 i.e. on 11-9-80 with certain remarks. In the High Court also the main grievance of the applicant was that he should be redesignated as Supervisor Gr.II since January, 1966.

3. It appears that the post where the applicant was posted, was intermediate post which did not exist. It may be stated here that the Hon'ble High Court of Judicature at ALLAHABAD LUCKNOW BENCH, LUCKNOW, has passed strictures on the department and expressed surprise at the facts represented from the side of the department as under:-

"According to the counteraffidavit, the last selection to the post of Store Keeper Gr.II, took place in 1972 and that no vacancies have arisen since 1973. In the circumstances the petitioner is not entitled to the amended relief sought by him. However, it does appear extraordinary that for a period of seven years no vacancies have arisen and no occasion has arisen for filling up the post in a regular manner in accordance with rules. It is expected that the authorities will not take the short-cut of making adhoc appointments and thereby deny the chance of promotion to the person regularly employed under them and holding lower posts. Recruitment rules should be scrupulously followed and not by passed in that manner. We have no doubt that the authorities will take due account of these observations. Any step resulting in non-filling of vacancies in regular manner and taking the work of higher posts from person holding lower posts for long periods is liable to result in frustration among their employees."

4. Notwithstanding these observations, not a single move has been made by respondents to hold examination and to promote the applicant to the said post nor pay scale was given to him, but it appears that he was asked to continue to do the same work. The applicant thereafter approached the Labour Court under section 33(c) of Industrial Disputes Act, for computation of amount, which was dismissed with the observation that the applicant was not entitled for computation for the amount claimed by stating that merely doing clerical work or physical work will not make him Supervisor Gr. II, which a promotion post, for that one has to pass examination and even if there is any recruitment one will have to pass examination and come through that channel. From the pleadings of the parties it appears that adhoc appointment, in between, has been made. In case any adhoc appointment has been made, examination should have been held. But it appears that deliberately or due to some other reasons, examination has not been held, although it was their duty to hold examination. In the mean-time they continued to hold adhoc appointment. In case any adhoc appointment has been made and any person junior to the applicant has been promoted on adhoc basis, the respondents are directed to promote the applicant also. Whenever examination is held, the applicant shall also be allowed to appear in the examination and his case shall be considered in the light of the above directions and on the basis of vacancies existing when he becomes entitled for the said post. The application stands disposed of in the above terms. No order as to the costs.

  
Member (A)

  
Vice-Chairman.

Dated: 24th February, 1993, Lucknow.

(tgk)