

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Transfer Application No. 1143 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 applicant has filed a writ petition before the High Court in the year 1983. The applicant has prayed for the issue of writ of mandamus directing the respondents to promote him to the post of D.A.A. retrospectively from the date he has been working in that capacity and that he may also be paid the difference of pay of both the posts. It appears that during the pendency of the application, the applicant attained the age of superannuation and has retired from service. His claim for the promotion takes place on the ground that inspite of his best work and conduct for a long period of 7 years the respondents have acted against the principle of Natural justice, and even though, he has established his right for the said post, but he was not promoted to the post and difference of the post was not given to him and his position was made that of a bonded labour. The promotional post which the applicant was claiming was design assistant -A in the scale of Rs. 550-750.

2. The applicant who started as a Tracer was promoted as D man 'B' in the grade of Rs. 1200-2040/- (RPS) w.e.f. 5.2.1958 and was promoted as Draftsman 'A' on adhoc basis in the scale of Rs. 1400-2300 (RPS) w.e.f. 5.5.1960. Under the recruitment rules, "the 50% of the

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sanctioned posts by promotion of Draftsman 'A'/Design Assistant 'B' on selection basis and the remaining 50% by transfer of suitable candidates from zonal Railways/Production Units on selection basis or alternatively by direct recruitment, both on selection basis". The applicant was only eligible for 50% quota against the departmental promotion on selection basis.

3. According to the respondents, he was given several chances to appear in the selection, but he has failed in the selection. Admittedly, the applicant was given a higher duty, but he was never regularly promoted, and merely because, the duties were taken and the applicant's work on the said post that will not confer any right on the promotional post, which one can get only in accordance with rules. Although, the applicant has worked on the said post, but the promotion not being regular, the applicant is not entitled to the benefits for the same; but if the applicant has shared the work, the applicant having been promoted on the said post on adhoc basis, he was certainly entitled to the emoluments on the said post. Even if, he was not promoted to the said post and additional duties were taken, he was entitled to additional emoluments, and accordingly, the respondents are directed to pay him additional emoluments to which he may be found entitled

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to within a period of three months from the date of communication of this order. In case, he is not entitled to any pay, any amount and whatever, he is entitled to, has already been paid, this order will be of no avail. No order as to the cost.


Member (A)


Vice-Chairman

Lucknow Dated: 16.11.1992.

(RKA)