

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA.

REGISTRATION NO. DA 451 of 1996

DATE OF ORDER : 29.06.2000

Prem Nath Chaturvedi, son of late Mathura Prasad Choubey, resident of Mohalla, Jangali Prasad Lane, Post Office-Begampur, P.S. Chowk, District - Patna, at present working as Upper Division Clerk in the office of the Regional Provident Fund Commissioner, Road No. 6, R.Block, Patna-1.

.....APPLICANT.

By Advocate Shri M.M.P. Sinha.

Versus

1. The Union of India through the Secretary, Ministry of Labour, New Delhi.
2. The Central Provident Fund Commissioner, HUDCO Vishala, 14 Vikhaje Cama Place, New Delhi - 110 066
3. The Regional Provident Fund Commissioner, Road No. 6, R. Block, Patna. 1.
4. Sri P.C. Neggi, Section Supervisor, Office of the Assistant Provident Fund Commissioner, New Vakalath -khana Bhawan, Kachahari Compound, Muzaffarpur.

.....RESPONDENTS.

By Advocate Shri R.S. Pradhan.

C O R A M

Hon'ble Mr. Justice S. Narayan, Vice-Chairman

Hon'ble Mr. L. Hmingliana, Member (A)

O R D E R

L.Hmingliana, Member (A):-

The applicant is an Upper Division Clerk (in short UDC) under the Regional Provident Fund Commissioner, Patna. He joined service as Lower Division Clerk (in short LDC) on 6.7.1973, and was promoted as

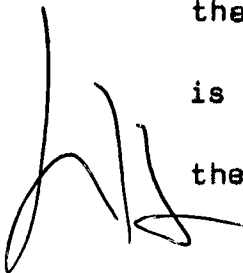
UDC on 6.4.1978. Then he was appointed as Hindi Translator Grade II purely on temporary and ad hoc basis, and he was appointed on regular basis on 11.1.1985 on probation for two years in the same post of Hindi Translator Gr. II. He sought reversion to the cadre of UDC, and the Regional Provident Fund Commissioner passed order dated 8.3.1994, transferring him to the lower post of UDC with effect from the date of his assumption of charge. In the order, it was stated that he would be treated as junior UDC from the date of his joining as his transfer was under FR 15. The relief prayed for is for treating him as UDC at his original seniority, and to consider his case for promotion as Head Clerk.

2. The grievance of the applicant, as made out in the OA, is that Ms S.D. Topo, his junior in the cadre of Hindi Translator was asked to give her option for filling up the vacant post of Head Clerk, but he was not. Realising that he did not stand a chance of promotion as Head Clerk, he made a representation to the departmental authority for his reversion to the post of UDC so that he could stand a chance for promotion to the post of Head Clerk. No action being taken on his representation, he filed OA 443/93, and the Tribunal disposed of the OA by order dated 11.10.1993, directing the respondents to dispose of his representation within a period of two months.

The order of the Regional Provident Fund Commissioner


dated 8.3.1994 was the decision taken by the Department in compliance with the direction of the Tribunal.

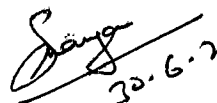
3. According to FR 14 - A, a government servant's lien on a post cannot be terminated if the result will be to leave him without a lien on a regular post, but his lien stands terminated on his acquiring a lien on another post outside the cadre on which he is born. The lien of the applicant on the post of UDC would stand terminated on his acquiring a lien in the post of Hindi Translator. It is stated in the written statement filed on behalf of respondents No. 1 to 3 that the applicant's lien on the post of UDC automatically ceased in view of the fact that he was regularised in the post of Hindi Translator Grade II. The applicant's appointment as Hindi Translator Grade II on probation for two years was from 11.1.1985, and his transfer to the post of UDC was on 9.3.1994, which was after the lapse of more than 9 years, and it is clear enough that he had acquired a lien on the post of Hindi Translator Grade II, and his lien on the post of UDC ceased automatically, as provided under FR 14 - A (2). As he had no lien on the post of UDC, the seniority he might have acquired formerly in the cadre had ceased. Then the stand taken by the respondents is correct, and there is no case for interference of the Tribunal, even though the applicant might have applied for his transfer to the



post of UDC with the impression that his seniority in the cadre would be fixed on the basis of his former seniority, and ~~that~~ he would stand a better chance of promotion. He may have suffered because of the wrong choice he made, but it is not possible to grant him ~~the~~ judicial relief.

4. The application has to fail, and it is hereby dismissed, with no order as to costs.

  
(L. HMINGLIANA) 306200  
MEMBER (A)

  
30.6.2000  
(S. NARAYAN)  
VICE-CHAIRMAN

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