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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

~~O.A.~~ No.

T.A. No. 432/87

198

DATE OF DECISION 13.6.91

Mr. B.L. Mehta Petitioner

Mr. G.S. Walia Advocate for the Petitioner (s)

Versus

Union of India & Ors. Respondent


Mr. V.G. Rege Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. U.C. Srivastava, Vice-Chairman

The Hon'ble Mr. M.Y. Priolkar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(U.C. Srivastava)
V/C

(12)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

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Tr. Application No.432/87

Brajkishore Lal Mehta
through Mr. G.S.Walia, Advocate,
Prabhat Centre, Near Fire Station,
CBD, Konkan Bhavan,
New Bombay 400 614.

... Applicant

V/s

1. Union of India

1. B.Ranganathan, Dy. Director
(Administration), Office of
the Textile Commissioner,
Maharshi Karve Road,
Bombay 400 020.

3. Shri A.K.Srivastava,
Officer-in-Charge,
Powerloom Service Centre,
Shed No.F.40 & 41,
Industrial Area,
Roopangarh Road, Madangani,
Kishangarh (Rajasthan)

... Respondents

CORAM : Hon'ble Vice-Chairman, Shri U.C.Srivastava
Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

Mr. G.S.Walia, Advocate
for the applicant and
Mr.V.G.Rege, Advocate
for the respondents.

ORAL JUDGEMENT:

Dated : 13.6.1991

(Per. U.C.Srivastava, Vice-Chairman)

The applicant was serving as a seniormost Technical Investigator in the office of Textile Commissioner and after 16 years service he was promoted to the post of Assistant Director, G.R.II(P&D) on 30th October 1982 vide order passed by the Joint Textile Commissioner. In accordance with the said promotion order the applicant was posted to the Power Loom Service Centre, Surat, Gujarat. The applicant joined service in the month of December 1982. The appointment letter indicated that he was placed on probation for a period of two years. After the expiry of the probation period of two years the

applicant was allowed to continue but no formal order was passed for confirming him. On 30th September 1985 an order reverting him to his original position was passed which is the subject matter challenged in the proceedings. The reversion order has been attacked on a variety of grounds including that his performance was not unsatisfactory and as a matter of fact no warning or notice on this behalf was given and he was not surprised that at any point of time that his work was unsatisfactory and as such he should not have been reverted. It appears that because he applied for leave as he had taken earlier also, the reversion order was passed. Thus the contention is that the proximity of the application for leave and the reversion order indicate that it was by way of punishment and in violation of Article 311 of the Constitution of India.

2. In the written reply filed by the department the averment made by the applicant has been denied and it has been stated that as his performance was not found satisfactory he was reverted. We looked into the record moved by the learned counsel for the respondents. In the record it is found that in the year 1983 adverse entry was communicated to the applicant and in 1985, two months prior to the reversion order another entry was communicated and during this period he was on leave for some 565 days. It may be that reasons for leave are genuine but in respondents' view his performance was not satisfactory. He not only had earned adverse entry but every now and then for some or other reason he was not able to attend his normal duties, which is expected from a Government servant. That is why he was reverted.

Under the interim order passed by the High Court he continue to hold the said post but so far as the reversion order is concerned, obviously it was within the domain of the appointing authority to come to a conclusion from the overall aptitude of the applicant whether the performance is satisfactory or not. From all these circumstances we have come to the conclusion that the performance was not satisfactory and it cannot be said that the order passed is either void, illegal or arbitrary. There was material before the respondents to arrive at a particular conclusion. The applicant could have been allowed to continue to hold the said office and his performance could have been watched for a few months more but that is not the ground for holding that the order issued was without any material or was by way of punishment. Obviously in case the applicant's work during these days was satisfactory it is always open to the respondents to promote him to the said post. But so far as the present reversion order is concerned it cannot be said that the applicant has any legal bias including violation of Article 311 of the Constitution of India or arbitrariness. Accordingly we do not find any merit in the application and we dismiss it with the observation that it is for the respondents to reconsider the case of the applicant and in case they find that now he has improved and performs his duty satisfactorily, they may consider him for promotion.


(M.Y. Priolkar)
Member (A)


(U.C. Srivastava)
Vice-Chairman