

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 753/89

Transfer Application No:
~~XXXXXXXXXXXXXXXXXXXX~~

DATE OF DECISION 17.2.1993

Shri M.L.Chandarkapure ----- Petitioner

None ----- Advocate for the Petitioners

Versus

Director General, E.S.I.C.N.Delhi & ----- Respondents
Ors.

Shri A.I.Bhatkar ----- Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice S.K.Dhaon, Vice Chairman

The Hon'ble ~~Shri~~ Ms. Usha Savara, 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 ?
- } No

(S.K.Dhaon)
Vice Chairman

NS/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

12

OA.NO. 753/89

Shri Mahadeo Lalaji Chandarkapure

... Applicant

V/S.

Director General,
Employees State Insurance Corpn.
Head Qrs. Office, E.S.I.C. Bhawan,
Kotla Road, New Delhi & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice S.K.Dhaon
Hon'ble Member (A) Ms. Usha Savara

Appearance

None for the applicant

Shri A.I.Bhatkar
for Shri M.I.Sethna
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 17.2.1993

(PER: S.K.Dhaon, Vice Chairman)

The order dated 17.5.1989 reverting the applicant from the post of a Head Clerk to the post of Upper Division Clerk is being impugned in the present application.

2. A reply has been filed on behalf of the respondents. No rejoinder affidavit has been filed. On 14.7.1992 this application was posted for hearing. On that date the applicant sent a telegram stating therein that he was not well and the hearing of this case may be adjourned. Accordingly, the hearing was adjourned to 20.8.1992. On 20.8.1992 the applicant was not present and the hearing was put off to 29.10.1992. On 29.10.92 the applicant put an appearance through Shri S.C.Dongre but the matter was adjourned to 6.1.1993. On 6.1.1993 no one appeared on behalf of the applicant. However, a telegram was received on 4.1.93 stating that the applicant's advocate would be unable to attend final hearing on 6.1.93 and, therefore, the hearing may be adjourned. Accordingly, the hearing was adjourned to 17.2.93. The case has been called out no one is present on behalf of the applicant. We are, therefore, proceeding to dispose of this application on merits.

3. Since no rejoinder affidavit has been filed and since the averments made in the application and in the reply filed on behalf of the respondents are substantially the same, we are taking the relevant facts from the reply filed by the respondents. The material averments made in the reply are these. The applicant was on 15.10.1985 ~~was~~ promoted as Head Clerk on purely temporary adhoc basis. This appointment was to take effect from 16.10.1985. The post of the Head Clerk is a Selection Post. On or about May 2/3, 1989 a Departmental Promotion Committee met and considered all the eligible candidates for being appointed as Head Clerk, including the applicant. The DPC did not find the applicant fit for appointment. Accordingly, the impugned order dated 17.5.1989 was passed reverting the applicant to his substantive post. We have gone through the contents of this application carefully and we have given a thoughtful consideration to the pleas raised by the applicant.

4. We are satisfied that no illegality is discernable in the order of reversion. It is now well settled law that a promotion to a higher post either on officiating or on adhoc basis gives no right to the person promoted ^{to} ~~on~~ such a post and the reversion of such a person to his substantive post does not visit him with civil or penal consequences.

5. We may note that earlier the applicant had been appointed as a Incharge Upper Division Clerk. However, he was reverted from that post to the post of Upper Division Clerk on the basis of ~~certain~~ charges. He was subjected to departmental proceedings and he was also given a punishment. He took the matter to the High Court by means of a writ petition. That petition was ultimately transferred to this Tribunal and Tribunal on 28.6.1991 dismissed the writ petition and upheld the punishment awarded to the applicant. We are really not concerned with that controversy at all.

84

(14)

6. The second relief claimed in this application is that the applicant be promoted as a Head Clerk w.e.f. 17.1.1985 with all benefits and emoluments attached to the said post. The relief claimed is purely consequential to the relief earlier claimed, namely, that the order dated 17.5.1989 reverting the applicant from the post of a Head Clerk to the post of Upper Division Clerk may be quashed. Since we are not inclined to quash the order of reversion, the question of granting the second relief, as claimed, by the applicant does not arise.

7. This application has no substance. It is dismissed but without any order as to costs.

h. Lawani
(MS. USHA SAVARA) ^{12 2:43}
MEMBER (A)

Suy
(S.K.DHAON)
VICE CHAIRMAN

mrj.