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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R.

O.A. No. 901/92

Date of decision: 14.7.94

D.L. BADIWAL

: Applicant.

VERSUS

UNION OF INDIA & ORS : Respondents.

None present on behalf of the applicant.

Mr. U.D. Sharma : Counsel for the respondents.

CORAM:

Hon'ble Mr. Gopal Krishna, Member (Judicial)

Hon'ble Mr. O.P. Sharma, Administrative Member

PER HON'BLE MR. GOPAL KRISHNA, MEMBER (JUDICIAL):

In this application U/S 19 of the Administrative Tribunals Act, 1985, applicant, D.L. Badiwal has prayed that the impugned order dated 4.4.86 by which he was reverted from the post of Investigator to that of Statistical Assistant be quashed. He has further prayed for a direction to the respondents to treat him as senior to Mr. S.R. Singhal in the post of Statistical Assistant in the Directorate of Census Operations, Rajasthan, Jaipur.

2. None is present on behalf of the applicant. We have heard the learned counsel for the respondents and have gone through the records of the case carefully.

3. The applicant's case is that he was appointed as Assistant Compiler in 1964 and thereafter, he earned promotions from time to time till he became an Investigator in the scale of Rs. 550-900. He was promoted as Investigator on temporary basis for a period of one year or till the post was filled in on a regular basis whichever was earlier. The promotion of the applicant to the post of Investigator was subject to the condition that either it was for a period of one year or till the posts are filled in on a regular basis whichever is earlier and, as such, his contention is that having held the post of Investigator for about 5 years he should not be reverted

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vide the impugned order which is assailed as being penal in nature. His further contention is that respondent no. 4 being junior to him should have been reverted as Statistical Assistant to make room for Shri H.C. Sharma who came back to the Department on repatriation. It is also contended by the applicant that before passing the order of reversion no opportunity of hearing was afforded to him.

4. On the other hand, the respondents contend that, as per rules, the Statistical Assistants possessing a degree from a recognised university are eligible for promotion to the post of Tabulation Officer and although the applicant was senior to Respondent No. 4, he was not considered for promotion to the post of Tabulation Officer since he did not possess any degree from a recognised university. Respondent no. 4 was promoted as Tabulation Officer w.e.f. 3-6-1980 against the reserved quota of S.C. and as per extant Recruitment Rules regarding Investigators prior to 1985, the post of Investigator had to be filled from the Tabulation Officers who had completed 3 years regular service on the said post. The respondent No. 4 being a Graduate was appointed as Investigator on regular basis by the Registrar General of India vide an order dated 4.9.85.

5. Since the reversion of the applicant was made due to repatriation of Shri H.C. Sharma, Senior Supervisor from D.P.E. according to seniority, it was not necessary to give any opportunity of hearing to the applicant.

6. So far as the question of the applicant's seniority vis-a-vis Mr. S.P. Singhal is concerned, the latter has not been impleaded as a respondent in this application and, therefore, the applicant's contention that he should be treated as senior to Mr. S.P. Singhal is unsustainable.

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7. The applicant was promoted to the post of

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Investigator in the scale of Rs. 550-900 on a purely temporary and adhoc basis for a period of one year or till the posts are filled-in on a regular basis whichever is earlier. It is further stipulated in the order of promotion that this adhoc appointment shall not bestow upon the official concerned any claim to regular appointment to the said grade. It is further stipulated that the services rendered on adhoc basis shall not be counted for the purpose of seniority in the grade nor for eligibility for promotion to the next higher grade and the appointment may be reversed at any time at the discretion of the appointing authority without assigning any reasons therefor. The respondent no. 4 was appointed as Tabulation Officer as he was ^a Graduate. As the applicant was not fulfilling the educational qualification required for promotion to the post of Tabulation Officer under the extant rules, he was not considered for promotion to that post. The applicant, therefore, continued to serve as an Investigator on adhoc basis till his reversion was caused by the repatriation of Shri H.C. Sharma, Senior Supervisor from D.P.E. In the circumstances, no opportunity of hearing was required to be given to the applicant before issuing the order of his reversion. The impugned order thus cannot be said to be illegal or penal in nature and there appears to be no ground for interference with it.

8. This application is devoid of any merits and it is, therefore, dismissed, with no order as to costs.

(O.P. SHARMA)
Administrative Member

C.Krishna
(GOPAL KRISHNA)
Member (Judicial)