

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of order : 08.09.2000

O.A. No. 432/1993

Ganesh Narain Meena son of Shri Mahadeo Meena, aged 38 years, Lower Division Clerk, in the office of Executive Engineer, Electrical Division, C.P.W.D., Jaipur.

... Applicant.

versus

1. Union of India through Secretary, Ministry of Urban Development, Nirman Bhawan, New Delhi - 110 011.
2. The Director General of Works, C.P.W.D., Nirman Bhawan, New Delhi - 110 001.
3. The Superintending Engineer, Co-ordination Civil Circle, C.P.W.D., I.P. Bhawan, New Delhi : 110 002.
4. The Superintending Engineer, Delhi Cent. Elect. Circle-II, C.P.W.D., R.K. Puram, New Delhi : 110 066.
5. The Executive Engineer (Elect.), Jaipur Central Electrical Division, C.P.W.D., B-7, Moti Marg, Bapu Nagar, Jaipur.

... Respondents.

Mr. P.V. Calla, Counsel for the applicant.

Mr. Hemant Gupta) Counsel for the respondents.
for Mr. M. Rafiq)

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman.

Hon'ble Mr. N.P. Nawani, Administrative Member.

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant prays for quashing of the order of his reversion dated 18.6.93 vide Annexure A/1. The applicant stated

that he was earlier working as Peon and vide Annexure A/2 dated 8.5.89, he was given ad hoc promotion as LDC for a period of six months. Thereafter, the said period of ad hoc promotion was extended from time to time. Meanwhile, the applications were called for departmental examination for promotion to the post of LDC. The applicant appeared in the said examination and vide proceedings dated 23.10.92 (Annexure A/3), he was placed in the panel at sl. No. 135 and one Shri Jagdish Sharma was placed at sl. No. 57. The applicant also had made a representation dated 2.4.93 vide Annexure A/5 to promote him regularly as LDC, but the applicant was reverted back to the post of Peon vide impugned order at Annexure A/1 dated 18.6.93. The applicant contended that when he was already working as LDC on ad hoc basis and he qualified in the departmental examination held in the year 1992, he could not have been reverted back to the post of Peon. Therefore, the impugned order Annexure A/1 is liable to be quashed.

2. By filing reply, the respondents have denied the case of the applicant. They stated that the applicant has suppressed the fact that he had earlier filed an O.A. No. 362/95 alongwith one Shri Jagdish Prasad Sharma, and in that application, on the point of maintainability of joint petition raised by the respondents, the name of the applicant was directed to be deleted from the said application. The said O.A. No. 362/93 was continued with Shri Jagdish Prasad Sharma, and ultimately, it has been disposed of vide order dated 5.7.93 with a direction to the respondents to fill up the vacancies by promotions according to rules. They have also stated that the said Jagdish Prasad Sharma was also one of the persons, who was reverted vide impugned order Annexure A/1 dated 18.6.93 at sl. No. 1 and he was also a person taken the examination held in the year 1992 and his name was placed at sl. No. 57, whereas the applicant, Shri Ganesh Narain Meena, was at sl. No. 135 of the said panel. As on the date of filing the reply, 15 persons have been promoted from amongst that list and the turn of Shri Jagdish Prasad Sharma and the applicant has yet to come. In the said panel, Shri Jagdish Prasad Sharma, at sl. No. 57, was senior to the applicant. The O.A. No. 362/93 filed by Shri Jagdish Prasad Sharma was disposed of vide order dated 5.7.93 with certain directions. That was being complied by the department. The respondents further contended that even the application filed by the present applicant is liable to be dismissed for the same reason, as stated in the order dated 5.7.93 passed in OA No. 362/93. At this juncture, it is submitted on both sides that by virtue of interim order, he continued as LDC, which he was holding as a stop-gap arrangement. The applicant has also been promoted as LDC in the year 1996. On the basis of these allegations, the respondents

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submitted that the present application is liable to be dismissed.

3. Heard the learned counsel for the parties. On the basis of the pleadings as well as arguments advanced on both sides, we find that the cause of the applicant based on the order Annexure A/1 dated 18.6.93, does not survive for more than one reason.

4. The applicant has sought for quashing his reversion order dated 18.6.93 vide Annexure A/1. It is also a fact that he had earlier filed an O.A. No. 362/93 alongwith Shri Jagdish Prasad Sharma, whose name is found in the impugned order at Annexure A/1 at sl. No. 1. In that application, by order of this Tribunal, the name of the applicant was directed to be deleted on the ground that such a joint application was not maintainable. Then the applicant filed the present Original Application separately, raising the same pleas. Subsequently, a final order was passed on 5.7.93 in O.A. No. 362/93, as under:-

"Heard the learned counsel for the parties. The submission of the applicant is that he was working for a period of about six years and he has been reverted. The case of the respondents is that they held an examination for the post, the name of the applicant finds place at sl. No. 57 and 14 persons have already been promoted out of the said list. The respondents should fill rest of the vacancies by promotions according to the rules. The vacancies should be filled up within three months and whenever the applicant's turn comes, he should be offered an appointment keeping in view the fact that he has already worked for about 6 years. The O.A. is disposed of accordingly. No order as to costs."

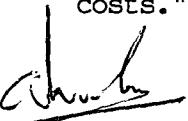
5. From the above order, it is clear that the same contentions urged in this application, were not accepted by this Tribunal in OA No. 362/93. Shri Jagdish Prasad Sharma was admittedly at sl. No. 57, whereas the applicant was at sl. No. 135 of the panel prepared after holding the departmental examination in the year, 1992. Therefore, the said direction issued by this Tribunal in OA No. 362/93 vide order dated 5.7.93, holds true even regarding the applicant. However, the learned counsel for the applicant submitted that on the basis of the judgement of Hon'ble the Supreme Court, reported in 1989 (1) SLJ 188 (Dr. A.K. Jain & Ors. etc. etc. vs. Union of India & Ors.) and the order of the C.A.T (PB, New Delhi), reported in 1989 (7) SLR 161 (Jetha Nand and Ors. vs. Union of India and Ors.), the applicant cannot be reverted, since the applicant was working on ad hoc basis and he had passed the departmental examination for the post in question. But this contention cannot be accepted for the reason that the order granting him ad hoc promotion vide Annexure A/2 dated 8.5.89 itself stated that his ad hoc promotion is for a period of six months and this ad hoc promotion does

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not confer on him seniority or any other rights. The applicant as having accepted the said order cannot seek any relief contrary to Annexure A/2. He is estopped from doing so. At any rate, admittedly the applicant has already been promoted in the year 1996, presumably in pursuance of the order dated 5.7.93 passed in O.A. No. 362/93 in case of Shri Jagdish Prasad Sharma. In these circumstances, we find that there are no merits in this application and the two judgements/orders cited by the applicant do not apply to the facts of the case. Accordingly, we pass the order as under:-

"Application is dismissed. But in the circumstances, without costs."


(N.P. NAWANI)

Adm. Member


(B.S. RAIKOTE)

Vice Chairman

cvr.