

9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of Order : 4.4.2000

OA No. 389/96

O.P. Gupta S/o Shri Mahadevji, aged around 58 years,
resident of A-21, Adrash Colony, Shanti Nagar, Hassanpura,
Jaipur, Retired Draftsman, O/o No. 3, Drawing Officer
(W.F.), Survey of India, Jaipur.

....Applicant

Versus

1. The Union of India through Secretary,
Ministry of Science & Technology,
Government of India, New Delhi.
2. The Surveyor General, Survey of India,
Office of Surveyor General of India,
Dehra Dun - 248 001 (U.P.)
3. The Director, Western Circle,
Survey of India, Geejgarh House,
Jaipur.

....Respondents

Mr. P.P. Mathur, Proxy counsel to
Mr. R.N. Mathur, Counsel for the respondents.
Mr. Hemant Gupta, Proxy Counsel to
Mr. M. Rafiq, Counsel for the respondents

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice-Chairman (J)
Hon'ble Mr. N.P. Nawani, Administrative Member.

ORDER

(PER HON'BLE MR. JUSTICE B.S. RAIKOTE, VICE CHAIRMAN)

Heard. This application has been filed for a
direction, directing the respondents to treat the applicant
as promoted to the post of Draftsman Grade I w.e.f. 29.12.95
with all consequential benefits.

2. The case of the applicant is that he was working
as Draftsman Grade II. On the basis of Annexure A-1 dated
29.12.95, he was promoted from Draftsman Grade II to
Draftsman Grade I by ^{from} transferring him /Jaipur to Bhubaneswar.
On this, the applicant made a representation to the higher

....2/-



authorities that he may be retained at Jaipur as he is on the verge of retirement. On the representation, vide an Order dated 19.3.96 (Annexure A-3), posting of the applicant to Bhubaneswar was changed to Jaipur. But no information was given to the applicant about this order dated 19.3.96. The higher authorities have directed the lower authorities to correct the order so as to retain the applicant at Jaipur. If so, necessary orders should have been issued on the letter dated 19.3.96 (Annexure A-3) but no order modifying the promotion-transfer order dated 29.12.95 (Annexure A-1) were issued. Meanwhile the applicant retired on 30.6.96. On the basis of these allegations, the applicant submitted that he should be treated as if he retired on the promotional post.

3. The respondents have filed their reply. The respondents have contended that Annexure A-3 was not issued by any authority and submitted that it was not a final correspondence but it is a correspondence from one office to another. Therefore, the applicant has no right and the order dated 29.12.95 was not modified. It is further contended that after the promotion order (Annexure A-1) dated 29.12.95, one person Shri S.L. Tak and another Shri P.S. Parmar have made the representation that if the applicant is retained at Jaipur, they would be seriously affected. It is stated that on the representation, no final decision was taken to modify the transfer order. Therefore, the applicant has no right to claim the relief prayed for.

4. We have heard the parties and have perused the pleadings. The applicant was promoted from Draftsman Grade II to Draftsman Grade I vide order dated 29.12.95 (Annexure A-1). On his promotion, he was posted at S.E.C, Bhubaneswar. The conditions of the promotion order are stated as under:-

"The acceptance/refusal of Office of promotion at the station indicated against each for all the above individuals may kindly be obtained in writing and the same forwarded to this Office latest by 29.1.96. If no information is received by this date, it would be assumed that they are not interested in this promotion and accordingly they would be debarred for promotion for a period of one year w.e.f. 30.1.96 or after one month from the date of eligibility in terms of para 17.12 of DP&T OM No. 22011/5/86-Estt.(D) dated 10.4.89 and promotions will be offered to

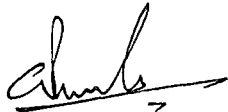
...3/-

junior persons according to DPC Rules. It may also be made clear that disciplinary action can be taken against the personnel who after giving their acceptance, withdraw or represent against it at a later date."

5. From reading of the above conditions of the promotion order, it is clear that the persons who were promoted on the basis of order Annexure A-1, were directed to report on the promotional post at the respective places and in case they refuse to go to their respective places, it would be taken that they have refused the promotion order and they will be debarred for promotion for one year. The condition further states that disciplinary action may be initiated against such persons. The applicant did not join at Bhubneswar but he made a representation to the higher authorities to retain him at Jaipur because he is on the verge of retirement. The higher authorities issued a letter to the Director at Jaipur that necessary corrections may be issued regarding promotion so as to retain the applicant at Jaipur vide Annexure A-3, but the Director at Jaipur sent a telegram to the higher authorities vide Annexure R-4 dated 25.3.96 stating that persons who are senior to the applicant and who are working at Jaipur would create problems and put the administration into difficulties and requested for reconsideration of the said order dated 19.3.96. On 30.6.96, the applicant retired from service. If that is so, as the applicant did not accept the promotion order (Annexure A-1) and did not join at Bhubneswar. The condition attached to the promotion clearly states that in case of refusal of promotion, it will be presumed that the employees are not interested in promotion and accordingly they would be debarred for promotion for one year and disciplinary proceedings would be initiated against them. From these circumstances, it is clear that applicant did not accept his promotion vide Annexure A-1 and he did not join at Bhubneswar and his representation for retaining him at Jaipur, because he was on the verge of retirement, was not considered and meanwhile he retired from service. Moreover, the order of promotion dated 29.12.95 was not modified by issuing a separate order stating that the applicant was allowed to join the promotion post at Jaipur. Annexure A-3 is only a letter between one office to other. On the basis of these facts only, conclusion that is possible is that the applicant retired as Draftsman Grade II and he would

17

not be entitled either for promotion or for any allowances in promotional post. Hence we have no option but to dismiss this application and accordingly it is dismissed. No costs.



(N.P. NAWANI)
MEMBER (A)



(B.S. RAIKOTE)
VICE CHAIRMAN