

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 365 of 2003

Jabalpur, this the 25th day of August, 2003.

Hon'ble Mr. D.C. Verma, Vice Chairman (Judicial)
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

1. R.C. Gour, S/o Late Shri Shambhudayalji Gour, aged 55 yrs, Senior Asstt. Security Paper Mills, Hoshangabad, MP
2. H.N. Parihar, S/o Late Shri G.L. Parihar aged 53 yrs. Senior Assistant, Security Paper Mills, Hoshangabad, M.P.

(By Advocate - Shri R.K. Gupta)

APPLICANTS

1. The Union of India through its Secretary, Ministry of Finance, New Delhi.
2. The General Manager, Security Paper Mills, Hoshangabad, MP

RESPONDENTS

(By Advocate - Shri K.N. Pethia)

O R D E R (ORAL)

By D.C. Verma, Vice Chairman (Judicial) -

By this Original Application the two applicants have prayed for quashing of the order dated 24.05.2003 (Annexure A-4) by which the promotion order has been kept in abeyance.

2. The brief facts of the case are that prior to amendment of 1997 the post of Head Time Keeper was being filled up from amongst Time Keepers only. The rule framed under Article 309 of the Constitution of the India was subsequently modified and the 50% of the posts of Head Time Keeper was provided to be filled up from amongst Senior Assistants with 5 years regular service and the remaining 50% from amongst the Time Keepers with 5 years regular service. Consequent to the amendment the present 2 applicants who were Senior Assistants were considered and promoted vide order

dated 30.04.2003 (copy Annexure A-2). However subsequently by Annexure A-4 (the impugned order) the order dated 30th April 2003 has been kept in abeyance. Hence this Original Application.

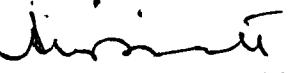
3. The case of the respondents are that after the promotion of the applicants, the Union raised grievances claiming 100% promotion to the post of Head Time Keepers from amongst Time Keepers as was given prior to amendment of 1997. The representation of the Union is still with the Government to refer to the industrial dispute. The learned counsel for the respondents submitted that as an industrial dispute has been raised this Tribunal has no jurisdiction to entertain this Original Application in respect to the grievances and the Original Application be dismissed on that ground alone.

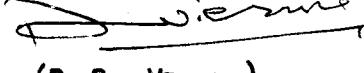
4. Counsel for the parties have been heard.

5. We find that the Union of Time Keepers have only made a representation and the matter has not yet been considered, as it is still pending before the Government for consideration. So far the promotion of the applicants are concerned the applicants were promoted by order dated 30.04.2003 and were granted the scale of Rs. 5500-9000/- . It is admitted by the counsel for the parties that the applicants received the pay of the promotion post. Consequent to instead of cancelling the promotion order/order of keeping the same in abeyance does not arise. The respondents have however kept the promotion order in abeyance though it was given effect in respect of the applicants and the applicants received the pay of the higher promotion post also.

6. Further it is mentioned that admittedly the recruitment rules to the post of the Head Time Keeper is framed under

Article 309 of the Constitution of the India and was modified in the year 1997 to make bring in promotion of Senior Assistants to the post of Head Time Keepers. It is not the case of the respondents that any of the two applicants are not eligible for the appointment as per the amended rules. It is also not the case of the respondents that the selection of the applicant were not properly made by following the due procedure. If the applicants were eligible as per the existing rules they cannot be denied of their right. Even if the ~~any~~ Union of Time Keepers has raised any grievance to claim 100% promotion to the post of Head Time Keeper it is always open for the respondents/competent authority to consider the same but that cannot affect the right which has already been accrued to the applicants. Consequently the order impugned in the present Original Application i.e. Annexure A-4 dated 24.05.2003 is quashed and the Original Application stands allowed accordingly. The applicants shall be taken in continuous service on the post of Head Time Keepers from the date of their initial ^{on the promotion post} appointment with all consequential benefits. No costs.


(Anand Kumar Bhatt)
Administrative Member


(D.C. Verma)
Vice Chairman (Judicial)

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पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....

प्रतिलिपि अंग्रेजीतः—

- (1) संहित, उच्च न्यायालय बार एसोसिएशन, जबलपुर
- (2) आदेशरत श्री/श्रीमती/छु.....के काउंसल
- (3) प्रस्तरी श्री/श्रीमती/छु.....के काउंसल
- (4) ग्रंथालय, केपअ., जबलपुर न्यायालयीठ
सूचना एवं आवश्यक कार्यालयी हैं

R.K. Gupta, M.A.
K.N. Dutt, M.A.


राम कृष्ण दत्त
(6/9/03)