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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

O.A. No. 231 of 1994.

Date of decision 24.4.1997

Sri Shyamal Nandi

PETITIONER(S)

Mr. B.K. Sharma, Mr. B. Mehta,
& Mr. S. Sarma.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr. A.K. Choudhury, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE JUSTICE SHRI D.N. BARUAH, VICE-CHAIRMAN.

THE HON'BLE SHRI G.L. SANGLYINE, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

Judgement delivered by Hon'ble Vice-Chairman.



1.8.97

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 231 of 1994.

Date of decision : This the 24th day of April, 1997.

Hon'ble Mr. Justice D.N.Baruah, Vice-Chairman.

Hon'ble Shri G.L.Sanglyine, Administrative Member.

Shri Shyamal Nandi
Son of P.Nandi
J.T.A.(Photo),
Geological Survey of India,
N.E. Region, Shillong,
Meghalaya

Applicant

By Advocate Mr. B.K.Sharma, B. Mehta and Mr. S.Sarma.

-versus-

1. Union of India,
Represented by the Secretary to the
Ministry of Mines,
Government of India,
New Delhi.
2. The Director General,
Geological Survey of India,
27, J.L.Nehru Road,
Calcutta.
3. The Deputy Director General (P)
Geological Survey of India,
4, Chowringhee Lane,
Calcutta-16
4. The Deputy Director General
Geological Survey of India,
North Eastern Region,
Shillong,
Meghalaya

Respondents

By Advocate Mr. A.K.Choudhury, Addl. C.G.S.C.

O R D E R

BARUAH J.(V.C.).

In this application the applicant has
prayed for a direction to the Respondents to
reallocate or restore the post of STA (Photo) to the
Geological Survey of India, North Eastern Region,
.....Shillong

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Shillong which was earlier withdrawn and also for a direction to the Respondents to promote the applicant to the post of STA (Photo) with retrospective effect. The facts for the purpose of disposal of this application are :

2. The applicant joined in Geological Survey of India as Photographer and posted at North Eastern Region, Shillong. At the time of filing of the application he was holding the post of Junior Technical Assistant (Photo). He was promoted to the said post on 30.3.1985. His next promotion was Senior Technical Assistant (Photo). According to the applicant as per the recruitment rule the eligibility criteria for such promotion is five years regular service as J.T.A.(Photo) or 10 years service as Photographer. As per the said rule the applicant became eligible for promotion to the post of STA (Photo) on 22.11.1988 on completion of 10 years of service as Photographer with effect from 21.11.1978. He also became eligible for promotion after completion of five years of service as JTA on 30.3.1990. At the time when his promotion became due, the 2nd Respondents by Annexure 1 Order dated 19.1.1987 alongwith other posts, the post of STA (Photo) was withdrawn. However, for what reason the said post was withdrawn had not been mentioned in the said order. When his promotion became due the applicant made enquiry in the office of the Respondent No. 4 and came to know that by Annexure 1 order dated 19.1.1987 alongwith other posts, the post of STA (Photo) had been withdrawn and reallocated in Calcutta. The
....applicant

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applicant expected the said promotion and therefore he was aggrieved.

3. Being aggrieved he submitted Annexure 2 representation to the 4th Respondent. On receipt of the said representation on 26.6.1991 the 4th Respondent by Annexure 6 letter dated 11.3.1993 requested the 2nd Respondent for reallocation of the said post to North Eastern Region but nothing was done. Thereafter, several requests and representations had been filed but to no avail of. As per rule, the applicant became eligible for next promotion to the post of Senior Technical Assistant (Photo). This was denied because of non-availability of post in the Region in consequence of withdrawal of post to Central Headquarter, Calcutta. Hence the present application.

4. In due course the respondents have entered appearance and filed written statement. The averments made by the applicant in his application have not been controverted. On the other hand in para 8 of the written statement the respondents have admitted the facts and also mentioned that the authorities were trying to solve the situation. We quote paragraph 8 of the written statement :

"8. With regard to the statements made in Paragraph 4.10 of the applications, the Respondents beg to state that all out efforts are being made to find out a solution to the problem."

5. We have heard Mr. B.K.Sharma, learned counsel appearing on behalf of the applicant and Mr. A.K.Choudhury, learned Addl. C.G.S.C. The employment avenues is very limited in this region. Number of persons remain unemployed for want of job. When

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someone enters in service, he expects some promotion. At the time entering in any service a person looks to the promotional avenue and keeps an eye to the next Promotion. In case of applicant the promotional avenue is Senior Tehnical Assistant (Photo). It is well known that without any promotional avenue, employees do not get impetus to serve in a better way. Stagnation in a particular post cause not only hardship to the employees but also it diminishes the work culture. In this case by Annexure I order the post which was available in this region had been withdrawn without giving any reason and thereby the promotional avenue was curtailed. The applicant being eligible was affected. For what reason the authority had to withdraw this post from the North Eastern Region to Central Headquarters, Calcutta is not known to us. The written statement filed by the respondents has also not shown any reason for withdrawal of the post and therefore it is liable to be set aside. The Apex Court has also expressed its opinion against the such action. The authority always shall be fair and its actions should be informed of reasons. In the absence of fairness and reasonableness the actions become arbitrary.

6. In the written statement the respondents have replied to the averments made in paragraph 4.10 of the application of the applicant. The respondents have stated in paragraph 8 of the written statement that all efforts were being made to find out a solution to the problem. This paragraph clearly indicates that the withdrawal of the post from this region was not for any justifiable reason and that is why the respondents were making all out efforts to ...solve

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solve the situation. If the problem is created by withdrawal of the said post, the problem created by the respondents in which applicant was in no way responsible. By such action injustice is done not only to the applicant but also to this region, as withdrawal of the post has deprived some persons from this region from promotion. Mr. A.K.Choudhury, Addl. C.G.S.C. in view of the stand taken by the respondents is finding it difficult to support the impugned actions. It is well settled that stagnation in the employment is contrary to the established principle service jurisprudence. In the case of Council of Scientific and Industrial Research and Another Vs. K.G.S. Bhatt and Another reported in 1989 SC 1972 the Apex Court observed thus :

"It is often said and indeed, ardoitly, an organisation\ public or private does not 'hire a hand' but engages or employs a whole man. The person is recruited by an organisation not just for a job, but for a whole career. One, must, therefore be given an opportunity to advance. This is the oldest and most important feature of the free enterprise system. The opportunity for advancement is a requirement for progress of any organisation. It is an incentive for personnel development as well."

7. In the present case we find that Annexure 1 order was issued without assigning any reason that the post was required to be taken to Calcutta by withdrawing from this region. The taking away of this post to Calcutta may give employment to some persons in Calcutta but it will thereby deny the legitimate due of the applicant or persons similarly situated. Even in the written statement the respondents have not explained the reasons why the post was withdrawn from

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this region nor the counsel appearing on behalf of the respondents has explained while making his submissions. Mr. Choudhury, learned Addl. C.G.S.C. only submits before us that the office of the Deputy Director General, Geological Survey of India, North Eastern Region is trying hard to get back the said post.

8. Considering all these facts we are of the opinion that withdrawal of the post was unreasonable, unfair and arbitrary. This action of the respondents has deprived the applicant's right to claim for promotion. Therefore, we direct the respondents to restore the post by cancelling Annexure I order and thereafter to consider the claim of the applicant as to whether he is entitled to get the promotion as per rule. This must be done as early as possible within a period of 3 (three) months.

With the above direction the application is disposed of .

Considering the entire facts and circumstances of the case however we make no order as to costs.


(G.L.SANGLYINE)
Administrative Member


(D.N.BARUAH)
Vice-Chairman