

Bhagwan Dass Vs. Delhi State Industrial Development Corporation

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Court : Delhi

Decided On : Oct-28-1998

Reported in : 1999(48)DRJ325

Judge : K. Ramamoorthy, J.

Acts : Service Law

Appeal No. : CW. No. 5238 of 1998

Appellant : Bhagwan Dass

Respondent : Delhi State Industrial Development Corporation

Advocate for Def. : Anusuya Salwan, Adv.

Advocate for Pet/Ap. : P.P. Khurana, Adv

Judgement :

ORDER

Ref: Office Order No.DSIDC/II-4/Estt dated 14th August, 1998.

'The Board of Directors in its meeting held on 22.09.1998 has directed that the Office Order indicated above whereby 9 Divisional Managers were promoted to the post of Chief Manager on purely ad-hoc basis may be kept in abeyance till further orders. The status quo ante prevailing before issue of this Order may be restored.

The above Office Order is, therefore, kept in abeyance with immediate effect and status quo ante is restored.

This issues with the approval of Managing Director.'

3. This is challenged by the petitioner. Besides challenging the order, the petitioner has prayed for the issuance of a writ of mandamus directing the respondent Corporation to hold a regular DPC for filling up the four sanctioned posts of Chief Managers in the respondent Corporation.

4. The respondent filed the reply, wherein it is stated that four posts of Chief Managers in the respondent Corporation had been sanctioned. They were not being manned by officers for a long time but those four posts have to be filled up after getting sanction from the Government of NCT of Delhi. The Board of Directors considered the issue in the meeting held on the 22nd of September, 1998. In paragraph 9 of the reply, it is stated:

'The matter was again taken to the Board in September'98 with an appropriate Agenda Item describing the re-organisation and the structure of the DSIDC at the level of Chief Manager. The Board in its meeting held on 22nd September'98 considered the proposal of the Management seeking ratification of the action taken by the Managing Director in promoting nine officers belonging to the cadre, by operating the four cadre posts already available and six ex-cadre posts lying vacant. The Board also considered the proposal of the Managing Director to create six posts of Chief Managers in addition to the four posts already available vide Board/s Resolution dated 22nd May, 1998, in lieu of ex-cadre posts lying vacant in the Corporation.'

5. The position was made clear by the respondent in paragraph 11 of the reply, which reads as under:-

'The matter was further considered in the meeting of the Board on 15th October'98 when it was clarified that the reference to the Committee for deciding the functional necessity would not apply to the posts already agreed to by the Board in its meeting held on 22nd May'98. As the order dated 14th August'98 was a

combined order promoting all the nine officers on ad-hoc basis en block, as decided by the Board, the entire order was kept in abeyance by issue of a subsequent order dated 24th September, 98. That the Resolution passed by the Board is annexed as AN-NEXURE R-I to the petition.'

6. The learned counsel for the petitioner, Mr.P.P. Khurana, submitted that the petitioner was appointed as Director in 1989. His position in the seniority list cannot be disputed by any other officer in the organisation and having regard to the fact that there are four sanctioned posts of Chief Managers, his promotion made on 14.8.1998 should be maintained and the order of the Board of Directors dated the 24th of September, 1998 cannot be sustained. According to the learned counsel for the petitioner, Mr.P.P.Khurana, the Board of Directors was concerned about the other six posts for which a Committee had been constituted. With reference to the four posts, having regard to the position of the petitioner, the order dated the 24th of September, 1998 cannot be sustained.

7. The learned counsel for the petitioner, Mr.P.P.Khurana, also submitted that having regard to the stand taken in the counter, with reference to the four posts the respondents should have taken action to hold a regular DPC for considering the case of the officers, including the petitioner, for being promoted as Chief Managers.

8. The learned counsel for respondent Ms.Anusuya Salwan, submitted that the order passed on 14.8.1998 by the Managing Director of the respondent Corporation does not clothe the petitioner with any right and it is purely on ad hoc basis. Though the period of six months is mentioned in the order, the ultimate authority in the respondent Corporation is the Board of Directors. The Board of Directors after considering the administrative exigencies, kept the order in abeyance. The right of the petitioner for being considered for promotion as Chief Manager on regular basis is nowhere affected. The learned counsel for the respondent Ms.Anusuya Salwan, submitted that the respondent Corporation has to get clearance from the NCT of Delhi with reference to the four posts of Chief Managers and as soon as the clearance is received from the Government of NCT of Delhi, the respondent will take steps immediately to hold the DPC for

considering the case of the officers, including the petitioner, for promotion for the posts of Chief Managers.

9. As regards the challenge of the petitioner the order dated the 24th of September, 1998 I am quite unable to accept the submission of Mr.P.P.Khurana, the learned counsel for the petitioner. The petitioner was promoted on ad hoc basis, though for a period of six months, and that has been only kept in abeyance and nothing has been said about any of the officers in the order dated the 24th of September, 1998. Solong as there is no legal injury to the petitioner, he cannot have any grievance when the order promoting the petitioner is on ad hoc basis and is kept in abeyance.

10. On the second point, there is considerable force in what Mr.P.P.Khurana, the learned counsel for the petitioner, submitted. Once, as stated in the reply by the respondent there is no dispute with reference to the four posts of Chief Manager in the respondent Corporation, the officers concerned must be considered for promotion without any delay. The career of the Government officials should not be affected by the proverbial red tapism. The respondent shall approach the NCT of Delhi for necessary sanction of the 4 posts of Chief Managers and the NCT of Delhi shall issue appropriate orders on or before the 31st of December, 1998 sanctioning the four posts of Chief Managers, and the respondent Corporation shall hold the DPC and consider the case of all eligible officers, including the petitioner, for the purpose of Chief Managers and issue appropriate orders on or before the 31st of January, 1999. Accordingly, the writ petition stands disposed of.

11. There shall be no order as to costs.

12. Copy of the order shall be sent to the Government of NCT of Delhi for implementation.

13. dusty to both the parties.

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