

(2010) 10 DEL CK 0076

In the Delhi High Court

Case No : Writ Petition (C) No. 120 of 1997

M.R. Maurya

APPELLANT

Vs

Tribal-Co-operative Marketing Development Federation of
India Ltd. (Triffed) and Others

RESPONDENT

Date of Decision : 26-10-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 10 DEL CK 0076

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : None, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Valmiki J Mehta, J.—None has appeared on behalf of the petitioner since the last three dates of hearings i.e. 20.11.2009 and 12.5.2006 & 25.10.2010. Today, no one has appeared in this case since morning and it is now 12 noon. I have therefore perused the records and am proceeding to dispose of the petition.

2. By this petition under Article 226 of the Constitution of India, challenge was originally laid by the petitioner to his compulsory retirement and reversion from the post of Deputy General Manager to the post of Assistant General Manager. The petition was disposed of on the very first day of hearing on 13.1.1997, and by which order, the writ petition was directed to be treated as a representation to the respondent for being decided by a reasoned order. The appropriate authority passed a reasoned order on 3.2.1997, which is found at running page 68 of the present file. By virtue of this order, the petitioner was granted the relief of setting aside his compulsory retirement, however, his reversion was continued. The reversion from the post of Deputy General Manager to Assistant General Manager continued not because of any punishment but because of the fact that seniors to the petitioners were appointed to the post of Deputy General Manager and there were no other posts vacant for appointment of the petitioner. The

relevant portion of the order dated 3.2.1997 reads as under:

The first representation of Shri M.R. Maurya is against his reversion as Assistant General Manager (AGM).

The Departmental Promotion Committee in their meeting held on 24/8/94 prepared a panel of the following 5 officers for promotion as Deputy General Manager (DGMs) against 3 vacancies available then.

1. Shri M.S. Dinakar (SC)
2. Shri C.K. Sood
3. Shri S.K. Chauhan
4. Shri M.R. Maurya
5. Dr. S.K. Majumdar

The first three officers in the panel were promoted against the 3 vacancies of the Deputy General Manager. Thereafter, following suspension of Shri Bhagwant Singh and Shri S.K. Chauhan, DGMs, 2 vacancies have arisen on 7/9/94 and 11/1/95 respectively. Consequently, Shri M.R. Maurya at serial No. 4 of the panel and Dr. S.K. Majumdar at serial No. 5 of the panel were promoted on 16/1/95 as DGMs in the vacancies that have arisen on account of the suspension of the two officers. Subsequently, suspension of Shri Bhagwant Singh and Shri S.K. Chauhan was revoked and they were reinstated as DGMs. Both Shri Bhagwant Singh and Shri S.K. Chauhan, being seniors to Shri M.R. Maurya and Dr. S.K. Majumdar and there being no more vacancies, the junior most DGMs namely Shri M.R. Maurya and Dr. S.K. Majumdar were reverted to the post of Assistant General Manager vide order No. TFD/HO/P&A/95/6846 dated 24/7/1995.

In view of the above facts, it is seen that the reversion of Shri M.R. Maurya was on account of want of vacancy not for any other reason. Under these circumstances, I see nothing wrong in the reversion of the officer. Accordingly, the order of reversion of Shri M.R. Maurya is upheld and the representation of Shri M.R. Maurya against his reversion is rejected.

3. The aforesaid order leaves no manner of doubt that once there are seniors who are eligible to the post, the petitioner who was a junior, could not be granted promotion to the post of Deputy General Manager. The post of Deputy General Manager by promotion is subject to both selection and seniority. Seniors to the petitioner were selected and appointed to the post of Deputy General Manager as a result of which the petitioner was lower in seniority could not be appointed as there was no post available.

4. This writ petition was revived on an application being CM 6111/1997 vide order dated 5.8.1997 on the basis that the claim for appointment to the post of Deputy General Manager still survives. A reference to the application shows that no basis has been laid as to why the order dated 3.2.1997 is in any manner

incorrect. In fact, there is no question of any shortcoming in the order dated 3.2.1997 on account of the reasons already given above.

5. I therefore, find that there is no merit in the claim of the petitioner for being appointed to the post of Deputy General Manager.

6. The writ petition is thus dismissed, leaving the parties to bear their own costs.