
(2004) 09 DEL CK 0104
In the Delhi High Court
Case No : WP (C) 3926 of 2003

Siraj Khan and Others

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 29-09-2004

Acts Referred:

Citation : (2004) 114 DLT 201

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : S.A.Syed and M.Taiyab Khan, for the Appellant; Kamal Mehta, for respondents 2-3, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan Sarin, J.—Rule.

With the consent of the parties, writ petition is taken up for disposal.

2. Petitioners Siraj Khan, D.S.Pundir and B.S.Rawat were working with respondent no.2 i.e Handicrafts and Handloom Export Corp. Petitioners seek by the present writ petition direction to respondents to grant them notional promotion to the post of Deputy Marketing Manager w.e.f 1.1.1997, 1.7.1999 and 1.7.1997 respectively according to the promotion policy of the year 1985-86 and release their pecuniary benefits.

3. The grievance of the petitioner emanates from the promotion policy introduced w.e.f 18.10.1995. The said policy is contained in the office order dated 30th October, 1995. It gave inter alias the revision of pay scales. The said office order specifically provides that existing Time Bound Promotion Policy stands scrapped w.e.f 18.10.1995 and replaced with vacancy oriented Promotion Policy. The previous policy was one primarily based on time bound promotion.

4. Learned counsel for the petitioners assail the policy introduced by office order dated 30.10.1995 on the ground that it amounts to retrospectively denying those

benefits to the petitioners which had accrued to them under the earlier time bound promotion policy. The said submission is devoid of merit.

5. Perusal of the earlier promotion policy shows that it was also subject to "merit and fitness". The normal period for promotion from the rank of DMM-II to DMM-I was six years and accelerated period was five years. The petitioners were Assistant Marketing Managers which were equivalent to DMM-II. The question to be considered is whether the petitioners had acquired any vested right under the Time Bound Promotion Policy on the date when the said policy was scrapped. The right of the respondents to revise or modify a policy in future is not in question. While exercising the power to revise or modify the policy, care has to be taken that vested rights accrued under the old policy are not affected.

6. Learned counsel for the petitioners places reliance on Grid Corporation of Orissa and Others Vs. Rasananda Das, to submit that service condition of employees are to be protected and cannot be changed to their disadvantage or detriment. There is no quarrel with the said proposition. The said judgment would not advance the petitioners' case. It is equally well settled that there is only a right to be considered for promotion. Petitioners under the time Bound Promotion Policy also became eligible for being promoted upon completion of five years or six years period as applicable subject again to "merit and fitness".

7. Learned counsel for respondents has submitted that in the emerging competitive market, respondent no.2 has undertaken reorganization and the number of promotional posts available have become few. In this context, respondents have per force changed the promotion policy by introducing Vacancy Oriented Policy. This action cannot be faulted with.

8. In the instant case, the dates of appointments of the petitioner no.1, petitioner no.2 and petitioner no.3 to the post of Assistant Manager Marketing are 31.12.1990, 1.7.1993 and 1.7.1991 respectively. It would thus be seen that none of the petitioners had completed five years in service as Assistant Manager Marketing leaving aside the normal period of six years, when the new policy was revised w.e.f 18.10.1995. Accordingly, even under the Time Bound Promotion Policy i.e old Policy they had not acquired any right.

9. In view of the foregoing discussion, petitioners are not entitled to the reliefs claimed and the writ petition is dismissed.