

PETITIONER:
NIHAL SINGH

Vs.

RESPONDENT:
K.K.GAMKHAR (DEAD) THROUGH UNION OF INDIA AND OTHERS

DATE OF JUDGMENT: 29/07/1998

BENCH:
SUJATA V. MANOHAR, M. SRINIVASAN

ACT:

HEADNOTE:

JUDGMENT:

J U D G E M E N T

SRINIVASAN, J.

The appellant was working as L.D.C and officiating U.D.C. in Land & Development office, Delhi Administration. He was placed under suspension w.e.f 2.3.1959 because disciplinary enquiry was contemplated. The Land & Development office was transferred to the Central Government and put under the Ministry of works, Housing and supply n October, 1959. The case of the appellant was reviewed and the order of suspension was revoked w.e.f 24.2.1960. On 6.4.73, the Land & Development officer issued an order whereby the appellant was deemed to have been promoted as Superintendent in the scale of Rs. 250-15-400 W.E.F 25.2.1959. The position was reviewed by the Ministry and it directed cancellation of the order dated 6.4.73 as the seniority of the appellant was still under consideration. Consequently an order was passed on 27.10.73 cancelling the earlier orders. On 24.8.76 an order was passed against the appellant as a result of a departmental enquiry holding that he was guilty of gross indiscipline and misconduct and awarding punishment of withholding two increments with cumulative effect. A third order was passed on 5.10.76 compulsorily retiring the appellant from service. A fourth order was passed on 7.12.76 restricting his pay for the period of suspension to the amount of subsistence allowance. 2. The appellant challenged the said High Court of Delhi in C.W.187/77.malafides on the part of the officer who passed the order dated 27.10.73.

3. The main reasons given by the Division Bench are that the appellant was not eligible for promotion too the post of Superintendent in 1959 as he was only a L.D.C. and officiating as U.D.C. and that there was no record show the existence of any vacancy in the post of Superintendent. The Appellate Bench could also find any material to agree with the Single Judge on the question of malafides on the part of the officer who passed the order dated 27.10.73.

4. Learned counsel for the appellant has taken us through the order of the learned single Judge and submitted that the findings arrived at by him should have been accepted by the Division Bench. We have perused the records placed before

us. We do not find any material to support the contentions of the appellants counsel. The reasoning adopted by the Letters Patent Bench is well founded and there is no justification to interfere with the same. We find no merit in the appeal. It is hereby dismissed. There will be no order as to costs.

JUDIS