

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 6406 OF 2002

DEVKI NANDAN SHARMA

Appellant (s)

VERSUS

NOVODAYA VIDYALAYA SAMITI & ORS.

Respondent(s)

(With appln(s) for directions, permission to place addl. documents on record and office report)

Date: 01/04/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE MARKANDEY KATJU

For Appellant(s) Mr. S.K. Dubey, Sr. Adv.
 Ms. Santosh Singh, Adv.
 Mr. Rakesh Mudgal, Adv.
 Ms. Sharda Hooda, Adv.
 Mr. Yogesh Tiwari, Adv.

For Respondent(s) Mr. S. Rajappa, Adv.

UPON hearing counsel the Court made the following
ORDER

In this case, the tribunal has directed that the respondent to consider the case of the appellant and take a decision for either providing in situ promotion or consider a line for further promotion after completion of 12 years of service. The said order has been affirmed by the High Court. As whatever relief that can be granted on the facts and circumstances has already been granted, we find no reasons to interfere in the matter. Appeal is, therefore, dismissed in terms of the signed order.

(Ravi P. Verma)
Court Master

(Anand Singh)
Assistant Registrar

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6406 OF 2002

DEVKI NANDAN SHARMA

.....APPELLANT(S)

Versus

NAVODAYA VIDYALAYA SAMITI &
ORS.

.....RESPONDENT(S)

ORDER

The appellant joined the service of Navodaya Vidyalaya Samiti - the respondent herein, as an Editorial Assistant on 21.12.1988. He approached the Central Administrative Tribunal with a grievance that there was no promotional avenues for the post held by him and, therefore, he should be considered for promotion to the post of Section

Officer on the same basis on which the respondent had considered Assistants in the Audit department. The Tribunal disposed of the said application by an order dated 6.12.1999 with a direction to the respondent that in case the Assured Career Promotion (ACP) Scheme notified by the Government of India was not applicable to the appellant, the respondent shall take a decision either to provide in situ promotion to the appellant or consider a line for further promotion on completion of 12 years of service. The Tribunal further directed the respondent to convey its decision to the appellant by a speaking order within six months.

2. The said order of the tribunal was challenged by the appellant in CWP No.1328/2000. The High Court, by order dated 23.2.2000, dismissed the writ petition having regard to the fact that the Central Administrative Tribunal had already granted appropriate relief by directing the respondent to take
.....2.

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a decision in the case of the appellant and consider a line for promotion for the appellant. The said order is challenged by the appellant in this appeal by special leave.

3. It is true that the conditions of service under the State usually provide for promotional opportunities. Absence of any promotional opportunities to only a particular section, while all others being provided with promotional opportunities may also lead to complaints of discrimination. But the Court cannot direct the employer State to provide any particular avenue of promotion to an employee. Therefore, the question of directing the respondent to consider the appellant for promotion to the post of Section Officer does not arise as there is admittedly no channel of promotion from the post of Editorial Assistant to Section Officer in the relevant rules.

4. In this case, the tribunal has directed that the respondent to consider the case of the appellant and take a decision for either providing in situ promotion or consider a line for further promotion after completion of 12 years of service. The said order has been affirmed by the High Court. As whatever relief that can be granted on the facts and circumstances has already been granted, we find no reasons to interfere in the matter. Appeal is, therefore, dismissed.

.....J.
(R.V. RAVEENDRAN)

New Delhi;
April 01, 2009.

.....J.
(MARKANDEY KATJU)