

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 2667/2002

New Delhi this the 7th day of May, 2003.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Sh. Kanta Prasad  
S/o Sh. Shiva Nand  
R/o A-271, 272, Jahangirpuri  
Delhi - 33.

...Applicant

(By Advocate Sh. S.M.Ratanpaul)

-Versus-

1. Union of India through  
the Secretary  
Ministry of Urban Development  
Nirman Bhawan, New Delhi.
2. Director General of Works  
Central P.W.D.  
Nirman Bhawan, New Delhi.
3. The Superintending Engineer  
Co-ordination Circle (Elect.)  
Central P.W.D.  
East Block, R.K.Puram  
New Delhi - 66.
4. The Executive Engineer  
P.W.D.Electrical Division II  
(N.C.T.D.)  
Old Secretariat  
Delhi - 54.

...Respondents

(By Advocate Sh. Ajesh Luthra)

O. R. D. E. R. (ORAL)

By Mr. Shanker Raju, Member (J):

Applicant impugns respondents' order dated 14.8.2001 wherein his claim for regularisation as Operator has been turned down. He has sought regularisation as Operator (E&M) from the date his juniors have been regularised and further seek appointment to the post of Operator w.e.f. 1997 when his juniors have been considered with all consequential benefits.

2. Applicant was engaged on muster roll basis as casual worker on the post of Assistant Operator on

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25.10.84. He had passed the trade test for the post of Assistant Operator in 1989. On joining CPWD as Assistant Operator the old recruitment rules provided qualification as practicable experience of three years in handling E&M plant.

3. Juniors of applicant viz. Raju, Satpal, Ashok Kumar and Vijaypal were regularised as Assistant Operators in 1993. As applicant was posted on an isolated post his particulars were not sent and with the result he remained as casual labour on muster roll. By an arbitration award dated 31.8.88 post of Assistant Operator was merged with the post of Operator and all Assistant Operators working on 7.5.97 had been re-designated as Operator (E&M).

4. Applicant represented against the aforesaid designation and his grievance was espoused by the respondents.

5. On 5.8.99 new recruitment rules were framed for the post of Pump Operator, which, inter alia, include as essential qualification of possession of ITI Diploma.

6. Applicant was called for interview on 30.7.2001 but was not found fit as per the new recruitment rules, his claim was rejected, giving rise to the present OA.

7. Strongly relying upon the decision of the Apex Court in Y.V. Rangiah & Ors. v. J. Sreenivasa Rao & Others, (1983) (3) SCC 284 learned counsel for applicant

contended that right of applicant for regularisation has accrued in 1993 his counter-parts and juniors were regularised on the post of Assistant Operator. Being similarly circumstance and equal in all respects he was not considered with the result he has been deprived of regularisation as Assistant Operator and on further merging has not be re-designated as Pump Operator with the result applicant is still stagnating for about 18 years on muster roll.

8.- On the other hand, respondents' counsel contended that as applicant was granted temporary status on 1.9.93 in the category of APO, there is no question of his juniors in his case. However, applicant appeared in the trade test of Pump Operator on 21.2.99 and was declared successful but DPC has not considered him fit as not possessing the prescribed qualification of ITI Diploma, he was not regularised on the post of Pump Operator.

9. However, this has been refuted by the respondents and in his rejoinder it is contended that juniors of applicant have already been regularised denying him equal treatment violative of Articles 14 and 16 of the Constitution of India.

10.- Sh. Ajesh Luthra, learned counsel appearing for respondents contended that applicant has not given better particulars as to the juniors being accorded regularisation as APO and in absence of such particulars it would be difficult to verify the position.

(4)

11. Having regard to the rival contentions of the parties and the fact that in view of Y.V. Rangaiah's case (supra) if a right of promotion or regularisation has accrued when the old recruitment rules were in vogue the same would apply and the subsequent amended rules would have no application, but the fact remains that applicant has to establish that his juniors have been accorded regularisation as APO. Ends of justice would be duly met, if the present OA is disposed of with a direction to applicant to furnish to respondents better particulars regarding his juniors being accorded regularisation as APO through a representation within 15 days from the date of receipt of a copy of this order. Thereafter on its receipt respondents shall consider the case of applicant in the light of Articles 14 and 16 for accord of regularisation to him as APO and further re-designation as PO, without insisting upon the qualification in the new recruitment rules. In the event claim of applicant is found tenable and his juniors have been regularised he shall be entitled to regularisation and re-designation from the date his juniors have been accorded the same, with all consequential benefits. Ordered accordingly. No costs.

S. Raju

(Shanker Raju)  
Member (J)

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