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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.480/2002

This the 12th day of September, 2002.

HON'BLE SHRI JUSTICE V.S.AGGARWAL, CHAIRMAN

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Manohar Dutt Joshi S/O Nand Ram Joshi,
R/O P-74/2, Kabul Line,
Delhi Cantt.

... Applicant

(By Shri Yogesh Sharma with Shri Ravinder Sharma, Adv.)

-versus-

1. Union of India through
Secretary, Ministry of Defence,
Govt. of India, New Delhi.
2. Chief Engineer, Headquarter,
Western Command,
Chandimandir.
3. Garrison Engineer (East),
Delhi, Delhi Cantt-10.

... Respondents

(By Shri r.N.Singh, Advocate)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

This application has been made against respondents' action in not granting benefit of upgradation to applicant from Civilian Motor Driver Grade-II to Grade-I w.e.f. 1.1.1996 though junior persons have been granted such dispensation by order dated 12.6.1999 (Annexure A-5). Applicant's claim in this regard has been rejected vide Annexure A-1 dated 10.4.2001 by respondent No.2.

2. The learned counsel of applicant stated that applicant was initially appointed as Civilian Motor Driver on 30.3.1984. He was promoted to the post of Motor Driver Grade-II on 22.4.1987. He was further

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promoted to the post of Motor Driver Grade-I in the year 1997. The learned counsel stated that while applicant's juniors, particularly, one Shri Bhagat Singh, had been promoted to the post of Motor Driver Grade-I w.e.f. 1.1.1996, applicant had not been accorded similar benefit of upgradation. The learned counsel stated that although for such upgradation, there is no condition for clearing a trade test, while respondents had permitted applicant's junior Shri Bhagat Singh to appear and clear the trade test in 1990, applicant was denied that opportunity.

3. On the other hand, the learned counsel of respondents stated that applicant was not eligible for upgradation to the grade of Motor Driver Grade-I w.e.f. 1.1.1996 not having completed the requisite five years' service in the grade and also not having passed the requisite trade test. He further stated that Shri Bhagat Singh was allowed to appear in the trade test although he had not completed the requisite five years of regular service in the grade at that time.

4. In Annexure A-2 dated 7.6.2001 and Annexure A-4 dated 26.6.2001, respondents have stated, "In the year 1989 Sh. Manohar Dutt Joshi, MTD had not completed three years of service. As such his name was not forwarded to higher authority for trade test by the concerned Sub Divn at that time."

5. Shri Bhagat Singh who was admittedly junior to applicant was allowed to appear in the trade test in 1990 when he had not completed the requisite three years of


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service. Applicant applied for appearing in such a test in 1989. As is clear from Annexure A-2 and A-4 he was not allowed to appear in the trade test not having completed the requisite three years. Ultimately, applicant cleared the trade test in 1996 and was accorded benefit of upgradation in 1997.

6. In his representation dated 26.12.2001 applicant has stated that he could not appear in the departmental trade test on account of the fault on the part of the department. In this connection, it is observed that applicant was not allowed to appear in the trade test as he had not completed three years in the regular grade when he applied for appearing in the trade test in 1989. However, the department allowed a junior of applicant to take the trade test before completion of three years' regular service in the grade while applicant was discriminated against. Applicant was approved in the trade test of Motor Driver Grade-I (now CMD Gr.-II) during 1997 and declared passed.

7. Considering that applicant's junior was allowed to appear in the trade test in 1990 while applicant was denied this benefit and now that he has cleared the trade test in 199^{7 1/2}, this O.A. is allowed directing respondents to consider granting benefit of upgradation to CMD Grade-II to applicant w.e.f. 1.1.1996, with consequential benefits. No costs.


(V. K. Majotra)
Member (A)


(V. S. Aggarwal)
Chairman

/as/