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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(12)

O.A. NO.98/2002

This the 23rd day of January, 2003

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

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

U.S. Mehra S/O Giani Ram,
R/O 635-A, Om Nagar,
Gurgaon (Haryana) 122001.

... Applicant

(None present)

-versus-

1. Union of India through
Secretary, Ministry of Defence,
South Block, New Delhi-110001.
2. Director-General of Quality Assurance,
Ministry of Defence,
Room No.234, South Block,
New Delhi-110001.
3. Director of Quality Assurance (Veh.),
Ministry of Defence,
Room No.87, G-Block,
DHQ P.O., New Delhi-110011. ... Respondents

(By Ms. Rinchen Ongmu Bhutia, Advocate)

O R D E R

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

As none appeared on behalf of applicant at the time of final arguments in the case, we have proceeded to decide the case in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987 considering the respective pleas of the parties, material on record and arguments advanced by the learned counsel of respondents.

2. Applicant has sought a direction to respondents to hold a review DPC to consider him for promotion to the post of Chief Draftsman-II with effect

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from the dates his junior Shri M.K.Ohal was promoted as such, with all consequential benefits.

3. According to applicant, he was considered for promotion to the post of Draftsman-I scale Rs.550-750 and was placed at Sl. No.26 in the select panel, a slot above Shri M.K.Ohal (who was junior to applicant as Draftsman-II). He filed a civil suit in the Court of Senior Civil Judge praying for grant of scale of Rs.425-700 w.e.f. 12.12.1976 along with arrears and subsequent promotion to the higher post. The civil suit was transferred to this Tribunal in 1985 and was registered as TA No.666/1986. Shri Ohal was further promoted in March, 1992 as Chief Draftsman. He joined on the said post on 26.3.1994. This Tribunal on 22.5.1992 partly allowed the TA directing respondents to grant revised pay scale to applicant from the date he joined the higher post in pursuance of orders of May, 1976 and also seniority as per rules. As such, applicant has contended that considering grant of pay scale of Rs.425-700 since 1976 he should be deemed to have become Draftsman-I and Chief Draftsman in 1992 when his junior was promoted as such.

4. Applicant and Shri M.K.Ohal were empanelled for promotion as Draftsman-I vide letter dated 22.11.1984. Both were offered promotion on posting. Shri Ohal on promotion assumed duties in the grade of Draftsman-I w.e.f. 4.3.1988. Applicant instead of accepting promotion on posting filed the aforesaid civil suit which was subsequently transferred to the

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Principal Bench of the Tribunal. This Tribunal decided the matter on 22.5.1992 inter alia holding as under :

"As regards the matter of transfer, there is no allegation of mala fide. It is in the exigencies of service and in the public interest that transfers are effected.... Thus, the prayer for an injunction to the Respondents not to transfer the applicant cannot be granted."

Obviously, this Tribunal did not accept applicant's prayer for giving any stay in matter of promotion/posting in the grade of Draftsman-I on the basis of promotion panel drawn in November, 1984. However, the Tribunal directed grant of revised pay scale of Draftsman-II in scale Rs.425-700 from the date applicant joined the higher post in pursuance of CIV Ahmednagar order of May, 1976, with consequential benefits of arrears of pay, etc. as per rules. Respondents have been in the right to grant consequential benefits to applicant in the grade of Draftsman-II and not in the matter of promotion in the grade of Draftsman-I. Applicant had not joined on the post of Draftsman-I on promotion. His junior Shri Ohal had accepted his promotion in 1985 itself and after completion of requisite number of years of service, he was promoted as Chief Draftsman in his turn and later on promoted as Chief Draftsman (gazetted) w.e.f. 30.5.2001. Applicant assumed duties of Draftsman-I on 7.12.1992 only. His panel seniority of Draftsman-I vis-a-vis Shri Ohal was maintained as per rules, i.e., he was shown senior to Shri Ohal. In terms of the provisions contained in recruitment rules of Chief Draftsman at the prevailing

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time, Darftsman-I becomes eligible on rendering minimum three years of service for promotion as Chief Draftsman-II. He has been considered for promotion on completion of requisite number of years from 7.12.1992 in his turn. In this backdrop he has been promoted as Chief Draftsman (now Chief Draftsman-II) w.e.f. 28.6.1996.

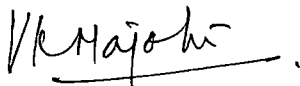
5. Respondents have also explained that CPWD award applicable from 13.5.1982 was implemented in September, 1995 only. In the meantime majority of Draftsmen in respective categories as on 13.5.1982 had earned regular vacancy-based promotion. DOP&T had specifically clarified that no review DPCs were required to be conducted. This clarification was circulated vide headquarters letter dated 9.9.1997. According to respondents, since applicant had accepted promotion in the grade of Draftsman-I in December, 1992 only, his eligibility had to be calculated from December, 1992. As such, respondents have contended that applicant is neither eligible for promotion as Chief Draftsman-II and Chief Draftsman prior to the promotion of Shri Ohal to these grades nor is any review DPC required to be conducted on account of his placement in the grade of Draftsman-I w.e.f. 13.5.1982 under CPWD award.


6. We have considered the rival contentions carefully. Points raised by applicant regarding his promotion vis-a-vis his junior Shri Ohal have been considered by respondents in Annexure A-1 dated 20.11.2001. Applicant had not accepted offer of promotion as Draftsman-I and resorted to litigation.

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This Tribunal in its order dated 22.5.1992 in TA-666/1986 did not grant applicant's prayer for injunction against his posting on promotion. As such, applicant joined as Draftsman-I on 7.12.1992 while his junior in the panel Shri Ohal had joined on 4.3.1985. Whereas respondents have maintained applicant's seniority vis-a-vis Shri Ohal and consequential benefits in the grade of Draftsman-II, he was promoted as Draftsman-I after he attained eligibility as per recruitment rules considering that he joined on the post of Draftsman-I on 7.12.1992. Applicant has failed in establishing his claim and we do not find any infirmity in respondents' orders rejecting applicant's request for ante-dating his promotion as Draftsman-I vis-a-vis his junior Shri M.K.Ohal.

7. Accordingly, this OA must fail and it is dismissed. No costs.


(V. K. Majotra)
Member (A)


(V. S. Aggarwal)
Chairman

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