

15

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**O.A. NO.1780/2001**

New Delhi this the 11th day of March, 2001. 10

**HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN**

**HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)**

Vijay Kumar Saxena  
S/o Shri T.S.Saxena  
R/o 39/21, Old Rajender Nagar  
Delhi. .... Applicant

( By Shri U.Srivastava, Advocate )

-versus-

Union of India Through

1. The Secretary  
Ministry of Agriculture  
(Deptt.of Animal Husbandary & Dairying)  
Govt.of India, Krishi Bhawan  
New Delhi.
2. The General Manager  
Delhi Milk Scheme  
Govt.of India, West Patel Nagar  
New Delhi. ... Respondents

(By Shri S.K.Gupta, Advocate)

**O R D E R (ORAL)**

**S.A.T.Rizvi:-**

Applicant herein who is a ~~Fitter~~ (Domestic Appliances) prays for a direction to the respondents to promote him to the post of Assistant Chargeman (Refrigeration) after relaxing the relevant rules.

2. On 13.7.1976, the applicant was appointed as S.S.F (Refrigeration) in the pay scale of Rs.210 - 290 on an ad-hoc basis and was thereafter regularised in the same post with effect from 5.1.1980. He came to be promoted as Fitter (Domestic Appliances), a Group

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[C] post in the pay scale of Rs.950-1500 on ad-hoc basis with effect from 15.3.1990. At that point of time, recruitment rules for the post of Fitter (Domestic Appliances) had not yet been notified. On the same being notified later on 4.5.1991, the applicant was regularised as Fitter (Domestic Appliances) with effect from the date of enforcement of the said rules, namely 4.5.1991, by an order passed by the respondents on 16.10.1997.

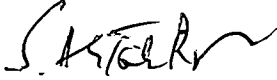
3. In-so-far<sup>as</sup> further promotion to the post of Assistant Chargeman (Refrigeration) is concerned, the matter is governed by the rules duly notified for the purpose and placed at Annexure A/5. In accordance with the aforesaid rules, posts of Assistant Chargeman (Refrigeration) are to be filled 50% by promotion and the remaining 50% by direct recruitment. In regard to promotion, the same rule provides that only Mechanics (Refrigeration) with two years' service in the grade could be considered subject to their possessing the qualifications prescribed in column 11 of the aforesaid rules. The applicant admittedly has not been appointed as Mechanic (Refrigeration) and is, therefore, not eligible for promotion in terms of the aforesaid rules. No case is made out at the same time for giving a direction to the respondents to relax the aforesaid rules so as to make way for the applicant.

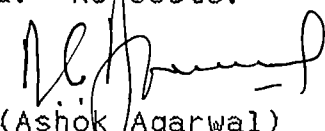
4. We also note that the applicant had come before this Tribunal even earlier through OA

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No.340/1999 seeking promotion to the post of Assistant Chargeman (Refrigeration). That OA was decided on 10.11.2000. The applicant's prayer was rejected. Way back in 1990, the applicant had made another attempt to get into the main stream whereby he could secure further promotion to the post of Assistant Chargeman (Refrigeration). That was done by filing OA No.935/1990 which was decided on 26.9.1994. His claim made in that OA that he be regarded as having been appointed as Mechanic (Refrigeration) was dismissed.

5. Having regard to the circumstances outlined in the preceding paragraphs and the reasons given, we find no force in the present OA which is dismissed, inter alia, on the ground of application of the principle of constructive res judicata. No costs.

  
(S.A.T. Rizvi)  
Member (A)

  
(Ashok Agarwal)  
Chairman

/sns/