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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

OA.No.130 of 1999

New Delhi, this 9th day of November 2000

HON'BLE SHRI KULDIP SINGH, MEMBER(J)
HON'BLE SHRI M.P. SINGH, MEMBER(A)

Raguvinder Singh
S/o Shri Kewal Singh
R/o Subhash Nagar, Talao Road
Jhajjar
Dist. Jhajjar-124103
Haryana

...Applicant

(By Advocate: Shri Ranbir Yadav, through
proxy Shri Atul Kumar)

versus

1. Union of India, through
Secretary
Ministry of Finance
Department of Revenue
New Delhi.
2. Additional Director General
Directorate General of Inspection
Customs & Central Excise
New Delhi.
3. Dy. Director of Inspection (Admn.)
Directorate General of Inspection
Customs & Central Excise
New Delhi.

... Respondents

(By Advocate: Shri V.S.R. Krishna)

ORDER(Oral)

Hon'ble Shri Kuldip Singh, M(J)

The applicant in this case has sought the following reliefs:

"i) to promote the applicant as L.D.C. from Sepoy from the date from which the junior Peons have been promoted;

ii) to quash the joint seniority list and prepare the first distinct seniority lists in accordance with the rules; ..."

2. The case of the applicant is that he had been recruited as a Sepoy. For promotion to the

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post of LDC the recruitment rules provides that in a calender year 5% of the vacancies are to be filled up on the basis of a departmental qualifying examination and 5% on seniority-cum-fitness basis. The department is maintaining a combined seniority list of all the Group 'D' employees including Gestetner Operators, Peons, Sepoys and Daftries etc. The learned counsel for the applicant contends that since Sepoy is having the higher pay scale than that of a Peon as well as the post of Sepoy is also promotional post, seniority of both cannot be clubbed together in the combined seniority list and it should not be treated at par with the seniority of Group 'D' employees. The promotions are made on the basis of length of service and not according to the seniority-cum-fitness as per the recruitment rules. Besides that, the applicant also contends that on 5.5.1994 when an examination was held for recruitment for promotion of Group 'D' staff to the post of LDC, result of which was declared on 19.1.1996, the applicant had qualified the same examination as per order dated 19.1.1996 at Annexure A-4 and he was at Sl.No.2, still he has been ignored for promotion to the post of LDC. So, he prays that the combined seniority list should be quashed and he should be considered for the post of LDC as he had qualified the examination.

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3. The respondents have contested the application. The learned counsel for the respondents submits that as per the recruitment rules, the method of recruitment to the post of LDC is, 90% by direct recruitment through Staff Selection Commission and 5% from amongst the Group 'D' staff who possess Matriculation or equivalent qualifications and rendered five years' regular service in departmental qualifying examination with typing test. Since it is a qualifying examination and after qualifying the examination the seniority of the candidates is also to be seen and in this case as per the combined seniority list the applicant's name figures at Sl.No.18 though he had qualified the examination. Since there was 10 vacant posts of LDCs to be filled up, the applicant could not be considered because of his seniority position in the combined seniority list.

4. We also find that the learned counsel for the applicant has not challenged the recruitment rules though he has stated that the seniority of Sepoys and Peons should not have been merged and a combined seniority list prepared for Sepoys and Peons etc. instead, a separate seniority list should be prepared for Sepoys. The applicant has not challenged the recruitment rules nor has he challenged the combined seniority list when the same was prepared on the basis of Finance

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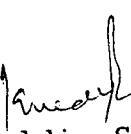
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Ministry's letter No.12018/11/89-Ad.III.B and was issued to all concerned after inviting objections. Since the applicant being Sepoy is also a Group'D' employee and the respondents have prepared a combined seniority list as per Finance Ministry letter which shows that the ~~combined~~ seniority list is for the purpose of promotion to Group'C' post of LDC. This also includes Daftries, Gestetner Operators. Daftry is otherwise having a little higher pay scale than that of Sepoy. The argument that for Peon, a post of Sepoy is a promotional post, this also does not convey any force because Sepoy also has other promotional avenue. However, for the purpose of promotion as LDC the department is maintaining combined seniority list which is in accordance with instructions of Ministry of Finance. So we do not find any force in the argument of learned counsel for applicant to challenge the combined seniority list.

5. In view of the above, we find no merit in the OA and the same is hereby dismissed. No order as to costs.


(M.P. Singh)

Member(A)


(Kuldip Singh)
Member(J)