

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2000/1999

New Delhi this the 15th day of February, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri Govindan S. Tampi, Member (A)

Rajbeer Singh,
S/O Sh. Roop Chand,
R/O Village and Post
Bhikampur, Distt. Ghaziabad (UP)

.. Applicant

(By Advocate Sh. R.K. Shukla, learned
counsel through proxy counsel Shri
K.B.S. Rajan)

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Union of India, through

1. Secretary, Department of
Economic Affairs, Ministry of Finance,
North Block, New Delhi.

2. General Manager,
India Government Mint
D 2, Sector 1, NOIDA (UP).

3. Durga Charan Murmu,
R/O Ghaziabad (UP)

4. Harun Ekka,
R/O Ghaziabad (UP)

.. Respondents

(By Advocate Sh. S.K. Gupta for
Respondent 1 and 2)

None for respondents 3-4)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

This application has been filed by the applicant impugning the seniority list issued by Respondent 2 dated 20.10.1998 (Annexure A 1) in which the applicant has been wrongly shown at Serial No. 3, whereas according to him, he is senior to Respondents 3 and 4.

2. We have heard Shri K.B.S. Rajan, learned proxy counsel for the applicant and Shri S.K. Gupta, learned counsel for respondents 1 and 2. None has appeared for respondents

3-4.

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3. The brief relevant facts of the case are that the applicant who is working as Mazdoor in the seniority list issued by Respondent 2 in 1994 is shown senior to Respondents 3-4. Admittedly, this is the feeder category for promotion to the next higher post of Assistant Grade-III(Fork Lift Operator)(FLO Gr.III). The applicant has been promoted on regular basis as FLO by order dated 16.7.1996. As per the Recruitment Rules(RRs), Mazdoors with three years regular service in the grade and possessing medium vehicle driving licence are entitled to be promoted as FLO Gd.III.

4. One of the main contentions of the learned proxy counsel for the applicant is that respondents 3-4 did not possess the essential qualifications when they were regularly promoted by Respondent 2 as FLOs Gd.III on 22.8.1995 i.e. prior to the promotion of the applicant. Learned counsel has drawn our attention to Annexure A-5, English translation of which has been submitted by him which is placed on record. He has submitted that even as late as Feb., 1999, respondent 2 had instructed respondents 3-4 to submit proper medium vehicle Driving Licence within the period specified thereunder, failing which action will be taken according to the Rules. Applicant's main grievance is that respondents 3-4 being juniors to him in the feeder category and not possessing the requisite qualification as per the RRs could not have been promoted earlier to him. Alternatively he has submitted that in case their promotions are considered as on regular basis, he should also be given promotion from the date respondents 3-4 were regularised i.e. 22.8.1995.

5. We have perused the reply filed by the respondents. They have taken a preliminary objection that

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the OA has been filed after a long delay. They have stated that the DPC was held for regular appointment on 22.8.1995 against which no representations had been made by the applicant except those dated 21.8.96 and 3.10.1996. As regards the Memo. dated 27.2.1999 whereby Respondents 3-4 were directed to produce proper driving licences within the specified period. Shri S.K.Gupta, learned counsel has not been able to inform us as to what further action has been taken. However, it is noticed from the reply of the respondents that they have stated that respondents 3-4 have submitted 'the H.T.V. Driving licence'. However, from this reply it is not exactly known as to when respondents 3-4 have acquired or submitted the requisite Driving licences.

6. We have considered the pleadings and the submissions made by the learned counsel for the parties.

7. The relevant portion of the Memo. dated 27.2.1999 which is issued by respondent 2 to respondents 3-4 reads as follows:-

" It is informed to the following employees that Driving Licence submitted by them are Learning Licence which is not permissible at per recruitment rules of Fork Lift Operator. Therefore, they are instructed to submit proper medium vehicle Driving Licence to under signatory within 15 days of receipt of this letter, otherwise, action will be taken according to the rules in above said subject."


From the above, it appears that at the time when respondents 3-4 were regularly promoted as FLOs Gd.III, they did not possess the qualifications as prescribed under the RRs, on 22.8.1995, namely, the medium vehicle driving licence. However, it is only in the end of Feb., 1999, that respondent 2 has sought the necessary information from these respondents. We find that in this context the reply given by the respondents to the specific averments made by the applicant in Paragraphs 4.3 and 4.4 are vague. They have

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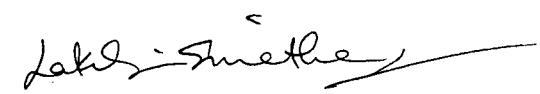
not given a categorical reply as to whether respondents 3-4 24 had acquired the necessary essential qualifications prior to 22.8.1995. In other words, if they did not possess the licence as per the RRs as communicated in the aforesaid Memo, action should have been taken by respondent 2 in accordance with the Rules. In this view of the matter, the claim of the applicant for antedating his promotion to the post of FLO Gd.III as given to respondents 3-4 cannot be automatically allowed. Apart from this, the applicant himself has admitted that he has produced the medium vehicle driving licence as required under the RRs only on 11.1.1996. Therefore, his claim for antedating his promotion cannot be allowed as he did not fulfill the requirements of the RRs prior to that date.

8. However, in the circumstances of the case mentioned above, it is presumed that respondent 2 would have already taken necessary action with regard to the promotion granted to respondents 3-4, in terms of their Memo dated 27.2.1999. If not, they are directed to do so within three months from the date of receipt of a copy of this order. They shall also revise the seniority list of Assistants Grade III (FLO Gr.III) of the persons holding that post on regular basis, in accordance with law, rules and instructions.

9. O.A. is disposed of in terms of Paragraphs 7 and 8 above. No order as to costs.


(Govindan S. Tampi)
Member (A)

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(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)