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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2748/1999

New Delhi, this 21st day of July, 2000

Hon'ble Justice Shri V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastri, Member(A)

1. Om Prakash Shukla
2. Makan Singh Pawar
3. Tejvir Singh
4. Ashok Kumar Saini
All working as Khallasis
Electrical Construction Dn.No.II
CPWD, Sena Bhavan, New Delhi .. Applicants

(By Shri Lakhan Pal, Advocate)

versus

Union of India, through

1. Secretary
M/Urban Development
Nirman Bhavan, New Delhi
2. Director General of Works
CPWD, Nirman Bhavan, New Delhi
3. Superintending Engineer
Coordinate Circle(Electrical)
CPWD, IP Bhavan, New Delhi
4. Executive Engineer
Electrical Construction Dn. II, CPWD
Sena Bhavan, New Delhi .. Respondents

(By Shri R.V.Sinha, Advocate)

ORDER(oral)

By Justice Shri V.Rajagopala Reddy

All the applicants joined as Khallasis in the year 1982-1984 with the CPWD. They were regularised during the year 1993. Under the then prevalent rules, the applicants were eligible for promotion to the next higher post of Assistant Wireman. Due to implementation of the Arbitration Award on recategorisation/reclassification of the Work-Charged Establishment Staff of CPWD as modified by Delhi High Court in its judgement dated 19.11.96, various categories of posts of work charged establishment were merged with their corresponding main categories vide OM dated 7.5.97.



Accordingly the post of Asstt. Wireman was merged with the post of Wireman. All the Asstt. Wiremen at the time of merger were promoted as Wireman. Recruitment to all categories of posts was kept in abeyance in view of the merger of the posts. The rules were revised in 1999. As per the revised recruitment rules 10 years regular service as Khallasi was required for promotion to the post of wireman. The grievance of the applicant is that though they were eligible for promotion under the old rules, respondents did not hold any DPC for promotion and as a result of the merger and as per the revised rules, applicants were rendered disqualified to be promoted as they have no 10 years regular service as Khallasi. Learned counsel for the applicants submits that the respondents have failed to convene the DPC every year as per rules to fill up the post of Assistant Wireman that existed from 1997 to 1999 according to the old rules. Applicants, therefore, were denied of their right for consideration for promotion.

2. In the reply it is averred that the applicants do not fulfil the eligibility criteria of 10 years regular service as Khallasi as on 31.1.89 and they were not allowed to appear in the trade test. Merger of the posts of Assistant Wireman and Wireman was done by the competent authority in public interest and in view of the revised rules, consequent upon merger, applicants were not found qualified for consideration and hence they can not be promoted.



3. We have given consideration to the contentions raised by the learned counsel on either side.

4. The facts are not in dispute in this case. The fact of the merger of the posts in view of acceptance of arbitration award as modified by the High Court is also not in dispute. Consequent upon the merger, R/Rules were revised. In the revised rules the post of Asstt. Wireman was abolished. Admittedly, applicants do not fulfil the eligibility criteria under the revised R/Rules.

5. Learned counsel for the applicants submits that there were vacancies for the post of Asstt. Wireman during 1997 to 1999 and hence the applicants should have been considered for promotion under the old rules. But the fact remains that in 1997 merger of the posts came into existence. As stated supra, by virtue of merger, the post of Asstt. Wireman was merged with that of Wireman. It is true that revised rules did not come into force then. But it should be noted that when the posts were merged, the entire structure of posts was changed including qualification, eligibility etc. for appointment of each category of posts and the rules were proposed to be amended. Holding DPC every year may be the normal practice to be followed under normal circumstances. But in view of the special circumstances by the merger that had taken place and posts are reclassified and restructured, we are of the view that the rule of filling up the posts by convening DPC every

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year cannot be applied and no malafide motive could be attributed to the Government for not filling up the posts. The recruitment ^{rules} came to be revised in 1999. As the applicants were not eligible they were not permitted to take the trade test.

6. In the circumstances, we do not find any infirmity in the action of the respondents. The applicants have no valid grievance in this case. The OA is therefore dismissed. No costs.

Shanta S
(Smt. Shanta Shastry)
Member(A)

V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice-Chairman(J)

/gtv/