

(14)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 2447/98

New Delhi: this the 4th day of May, 2000.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MR. KULDIP SINGH MEMBER (J)

Dr. Balram Misra,
S/o Shri Mangal Prasad Misra,
Barracks Stores Officer (Retd),
C/o 25, Lawyers' Chamber,
Supreme Court Compound,
New Delhi.

.....Applicant.

(By-Applicant in person)

Versus.

1. Union of India,
through the
Secretary,
Ministry of Defence,
South Block,
New Delhi-11
2. Engineer-in-Chief,
Army Head Qrs.,
Kashmir House DHQ PO
New Delhi-11
3. Lt. Gen. V. N. Kapur FIE, PVSM, E-in-C (Retd),
128 Sainik Farm, Khanpur,
New Delhi-62.
4. Lt. Gen. Jagdish Narain, PVSM, AVSM, VSM, ADC, E-In-C
(retd),
437-D, Sector-29, Noida (UP) ,
5. Lt. Gen. N. R. Khanna, PVSM, MSC, FIE, E-in-C (Retd),
175, Sector-37, Arun Vihar,
Noida (UP).
6. Chairman, UPSC, Dholpur House, Shahjahan Road,
New Delhi.

And 7 to 36 as per Memo of parties ... Respondents.

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

ORDER

HON. MR. S. R. ADIGE, VC (A).

Applicant impugns respondents' letter dated 3.2.97 (Annexure-A1) containing names of BSOs who were empanelled for promotion as Sr. BSO in MES of

Defence Ministry against vacancies for the year 1991-92; 1992-93; 1993-94; 1994-95 and 1995-96. He seeks a direction to respondents to hold a review DPC to reconsider his case for promotion against vacancies arising in the years 1991-97 with all consequential benefits.

2. Applicant was appointed as Barracks and Stores Supervisor Grade II on 19.5.65 and was promoted as B & S Supervisor Grade I on 29.9.72. While holding the aforesaid post, he applied for direct recruitment to the next higher post of BSO through UPSC and was selected as such on 21.2.83, and joined duty against that post on 16.5.83.

3. On completion of eight years' service as BSO, applicant became eligible for consideration for promotion to the next higher post of Sr. BSO, which is admittedly a selection post.

4. Respondents admittedly did not convene the DPC every year. A DPC was eventually held on 2/3.1.97 to consider filling up vacancies of Sr. BSO for the years 1991-92; 1992-93; 1993-94; 1994-95, and 1995-96. It was presided over by a Member of UPSC. We have perused the minutes of the DPC met on 2/3.1.97 to consider recommending names of officers for promotion against vacancies of the years 1991-92 to 1995-96 (both years inclusive) the recommendations of the DPC were made with respect to the vacancies that became available in each of those years. We note that in the year 1991-92 there were 7 vacancies including 6 general and 1 SC while applicant was rated as good for that year, there were atleast 6 general candidates who were senior to

applicant who were rated as Very Good, and a SC candidate Shri S.N.Gautam was also rated as Very Good. Hence applicant could not be promoted in 1991-92.

5. In 1992-93, 7 vacancies became available, including 5 general, 1 SC and 1 ST. There were atleast 5 general candidates senior to applicant who were rated as Very Good, while applicant was rated as Good.

6. For the year 1993-94 there were 4 vacancies including 3 general and 1 SC. Applicant was rated as Good while one general candidate who was senior to applicant and 3 general candidate who were junior to him were rated as Very Good. As the post of Sr.BSO is to be filled by selection, and those with better assessment would supersede those whom assessment was not so good, the general candidate with Very Good who was senior to applicant and 2 general candidates with Very Good who were junior to applicant were promoted against the 3 general vacancies.

7. For the year 1994-95 there were 7 vacancies including 6 general vacancies and 1 SC. 2 general candidates who were senior to applicant and who were assessed as Very Good and 4 general candidates who were junior to applicant but had secured Very Good were promoted against the 6 general vacancies as applicant secured only 'Good'. The SC vacancy went to an SC candidate who secured 'Very Good'.

8. In 1995-96 there were 5 vacancies including 4 general and 1 S.T. The 4 general vacancies were occupied by 4 candidates (3 general and 1 SC)

who though junior to applicant had secured 'very good' as against applicant's 'good', and the ST vacancy went to an ST candidate.

9. During hearing applicant contended that if the DPC had been held each year, and he found that he had not been promoted in 1991-92 itself, it might have spurred him on to improve his performance and get better gradings in subsequent years as a result of which he might have been promoted any time after 1991-92 but before 1995-96. The non-holding of DPC in each year is something which would have affected all candidates equally and applicant cannot claim that he has been discriminated qua others. Under the circumstance this ground by itself does not give applicant a legally enforceable right to claim that recommendations of the DPC dated 2/3.1.97 were illegal and arbitrary and therefore warrant judicial interference.

10. In the course of the pleadings, applicant has also contended that the vacancies for the years 1991-96 were clubbed together but this contention is fully incorrect as the foregoing analysis amply makes clear.

11. In his pleadings applicant has also alleged that the number of vacancies which became available yearwise with particular reference to the calculation of SC and ST vacancies, was incorrect. We have already seen that the applicant being a general candidate had competed with other general candidates and while he was rated as 'good', others both senior

and junior to him in each of these years were rated as 'very good', and the post of Sr. BSO being a selection post those with 'Very Good' superceded applicant who had secured only 'good'. We have already noticed that DPC was conducted under the Chairmanship of a Member of UPSC and had other senior officers as its members. Prima facie there are no materials before us to hold that this high power body consisting of senior officers and experts acted arbitrarily or in illegal manner.

12. In the result, applicant has not been able to make a case to warrant judicial interference in the OA. It is dismissed. No costs.

Kuldeep
(KULDIP SINGH)

MEMBER (J)

Arif Adige
(S.R. ADIGE)
VICE CHAIRMAN (A).

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