

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O. A. NO. 1788/1996

New Delhi this the 12th day of February, 2001.

16

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

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

Shri Prem Pal
S/o Shri Devi Prasad
R/o 10/R/234, Ordnance Factory Estate
Muradnagar
Distt. Ghaziabad. (U.P) ... Applicant

(Shri V. Verma, proxy for Shri N.S.Verma,
Advocate)

vs.

1. Union of India through
The Secretary
Government of India
Ministry of Defence
(Directorate General of Quality Assurance)
New Delhi.
2. The Directorate General of Quality Assurance
(Department of Defence Production)
Ministry of Defence
DHQ PO, New Delhi.
3. The Senior Quality Assurance Officer
Senior Quality Assurance Establishment
(Metals)
Muradnagar
Distt. Ghaziabad (U.P.)-201206.
4. Shri Devi Saran (T.No.476)
Senior Quality Assurance Establishment
(Metals)
Muradnagar
Distt. Ghaziabad.
5. Shri Baleshwars Dayal (T.No.477)
Senior Quality Assurance Establishment
(Metals)
Muradnagar
Distt. Ghaziabad (U.P.) Respondents

(Shri A.D.Tyagi, DA & AO, Departmental
Representative for official respondents
and Shri Yogesh Sharma, Advocate for
Respondent No. 4)

(1A)

Shri S.A.T.Rizvi

The learned proxy counsel for the applicant seeks adjournment on the ground that Shri N.S.Verma, learned counsel for the applicant is not able to appear today. Shri A.D.Tyagi, DA & AO, departmental representative is present on behalf of the official respondents. Shri Yogesh Sharma, the learned counsel for respondent No.4 is also present. Original record pertaining to the D.P.C. proceedings held on 22.8.1989 has also been made available to us. We now proceed to dispose of the OA in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. The applicant was initially appointed as a Daftry on 16.2.1981 and continued as such till 22.9.1989. By a circular dated 14.8.1989, applications were invited for the posts of Examiner (Skilled). The applicant also applied for the same. He appeared at the trade test on 22.8.1989. The others who had also applied appeared for the trade test on the same date. The applicant was confirmed as Daftry with effect from 1.4.1988. The others namely respondents 4& 5 were confirmed as Examiner (Skilled) with effect from 1.4.1990. Applicant was not confirmed as Examiner Skilled) though, according to him, his juniors namely respondents 4 & 5 were confirmed, as stated, with effect from 1.4.1990. It would appear that the applicant was not confirmed as
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(9)

Examiner (Skilled) for the reason that he was treated as a departmental promotee from the rank of Daftry. It was clarified, however, that the applicant's appointment as Examiner (Skilled) was a fresh appointment and could not be treated as promotion from the rank of Daftry. The applicant filed the present OA praying for grant of confirmation in the post of Examiner (Skilled) with effect from 1.4.1990. The OA was allowed by an order passed on 7.3.2000 and the respondents were directed to confirm the applicant also in the post of Examiner (Skilled) with effect from 1.4.1990, the date from which his juniors were confirmed. The relevant seniority list was also directed to be recast accordingly and the applicant was directed to be given consequential benefits.

3. Aforesaid order was reviewed by this Tribunal and by an order passed on 15.12.2000 it was decided to recall the aforesaid order dated 7.3.2000.

4. We have perused the original record produced by the departmental representative and we find that at the selection held on 22.8.1989, the applicant was placed 3rd in order of merit after Shri Devi Saran and Shri Baleshwas Dayal, respondents 4 & 5 respectively. Thus the applicant could not claim seniority over the aforesaid respondents and has to be placed at No.3. This position is in accord with the relevant rule for fixation of seniority in respect of direct recruits which insofar as is relevant is reproduced below:-

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"Seniority of Direct Recruits and Promotees

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2.1 The relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection."

We find that there can be no dispute about the applicability of the aforesaid rule.

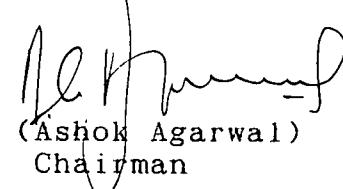
5. In the circumstances, the applicant is found to be junior to the aforesaid respondents 4 & 5. However, he will still be entitled to be confirmed with effect from the same date namely 1.4.1990. The consequential benefits will also flow to him accordingly.

6. The OA is disposed of in the aforestated terms with no order as to costs.


(S.A.T. Rizvi)

Member (A)

sns


(Ashok Agarwal)

Chairman