

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.2306/1996

New Delhi this the 21st day of March, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

1. Rakesh Kumar  
S/o Shri Arjun Singh  
R/O 35/178/10A Nagla Bhavani Singh,  
Dewri Road Katra,  
Agra Cantt.
2. Deewan Singh  
S/o Shri Ved Ram  
R/o 39/69A, Nandpura  
P.O. Pratappura, Gwalior Road  
Agra. ... Applicants

( None for the applicants )

-Versus-

1. Government of India  
through the Secretary  
Ministry of Defence,  
New Delhi - 110011.
2. Directorrate General of EME (GV-2),  
Master General of Ordnance Branch  
Army Headquarters,  
DHQ, PO  
New Delhi-110011.
3. HQ, Technical Group EME,  
Delhi Cantt- 110010.
4. 509, Army Base Workshop,  
Agra Cantt-282001. ... Respondents

( None for the respondents )

O R D E R (ORAL)

V.K. Majotra, AM:-

Parties and their Advocates are absent. We proceed to dispose of the OA on merits in their absence in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

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2. The applicants Rakesh Kumar and Deewan Singh were appointed in 509, Army Base Workshop, Agra Cantt. on 21.10.1988 and 1.03.1989 respectively as Machinist Skilled Grade in the scale of Rs.950-1500. Their grievance is denial of promotion to them against reserve roster points 1 and 8 for SC candidates to the higher post of Machinist HS Grade II in the pay scale of Rs.1200-1800 even though they are educationally and technically qualified and have completed the requisite service of 3 years in the skilled grade of Machinist during 1991-92. According to the applicants, there are 9 posts of Machinist HS Grade II and as per the 40 point roster, 2 SC and 1 ST points are reserved for promotion of Machinist for SC/ST categories respectively. The applicants have alleged that instead of promoting them against reserved points, the respondents have proceeded to conduct trade test for filling up the vacancies by promotion ignoring the Reservation Policy and the respondents are considering other employees from other sister trades in a discriminatory manner in violation of Articles 14 and 16 of the Constitution of India. The applicants have sought a direction to consider them for promotion to the Machinist HS Grade II in the pay scale of Rs.1200-1800 against the existing SC reserve points 1 and 8 of the roster, alternatively to promote one of the applicants as Machinist HS Grade II in lieu of Machinist HS Grade I.

3. In the counter, the respondents have averred that based on the recommendations of the expert

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classification committee appointed in terms of para 19 of chapter 19 of the Third Pay Commission, the pay scale of Machinist along with others was revised from Rs.260-350 to Rs.330-480 with effect from 16.10.1981. As per order dated 15.10.1984, Annexure R-2, all the workers of the 19 trades including Machinist were categorised as follows:-

- (a) Highly Skilled Grade-I (Rs.380-560) - 15%
- (b) Highly Skilled Grade-II(Rs.330-480) - 20%
- (c) Skilled Grade (Rs.260-400) - 65%

According to the respondents total 27 tradesmen were authorised in the trade of Machinist in the 509 Army Base Workshop, Agra. As per the ratio percentage stated above, only 4 vacancies are meant for Highly Skilled Grade-I and 5 vacancies for Highly Skilled Grade-II. Prior to the appointment of the applicant as Machinist, there were 14 workers in the grade of Machinist including one Mate (semi skilled) out of which 4 individuals were held in Highly Skilled Grade-I and remaining 9 were held in Highly Skilled Grade-II against 5 vacancies. Thus 4 Machinists in Highly Skilled Grade-II were in excess due to bulk fitment of workers of this trade. As per Recruitment Rules (SRO 1 of 7.1.1988) Machinist (Skilled) with 3 years regular service in the grade and subject to passing the trade test held for this purpose are eligible for promotion to Highly Skilled Grade-II. Since there was no vacancy in the said Highly Skilled Grade-II, no promotion had been made due to excess strength in the said grade. According to the

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respondents, mere eligibility cannot amount to automatic promotion. Promotion can take place only when there is availability of vacancies in the higher grade which is not the case here. The respondents have also informed the applicants that the cadre review is under consideration of the Government and a decision when arrived at will be communicated to all concerned. The representation of the applicants has also been forwarded to the higher authorities by the respondents who have not taken any decision so far.

4. According to the respondents, at present two individuals are held in Highly Skilled Grade-I and one vacancy has been carried forward for ST community. Next running point 8 in 40 point reservation roster comes to SC community for which no SC/ST candidate is available against 6 held in Highly Skilled Grade-II. One worker is still in excess in Highly Skilled Grade-II against five vacancies. No vacancy for SC community exists to carry forward as one SC candidate was already promoted to Highly Skilled Grade-I against point No.1 earmarked for SC in reservation roster for ST/SC maintained separately for each mode of promotion as per Ministry of Home Affairs Office Memorandum dated 22.4.1970. No reservation roster for mode of promotions from skilled workers to Highly Skilled Grade-II has been maintained as promotions have not been made till date due to bulk adjustment of skilled workers in Highly Skilled Grade-II as mentioned above.

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5. The pay scales of Highly Skilled Grade-I/II and skilled grade have again been revised by the Fourth Pay Commission with effect from 1.1.1986 as under:-

- (a) Highly Skilled Grade-I (Rs.1320-2040)
- (b) Highly Skilled Grade-II (Rs.1200-1800)
- (c) Skilled Grade (Rs.950-1500)

6. We have considered written arguments submitted on behalf of the respondents and the material on record. It has been admitted by the respondents that no reservation roster for mode of promotion from skilled workers to Highly Skilled Grade-II has yet been maintained in view of the non-availability of vacancies in the category of Highly Skilled Grade-II.

7. In the case of Vir Pal Singh Chauhan and others Vs. Union of India, 1987 (2) ATR 70 the Allahabad Bench of the Tribunal had ruled that reservation in matter of promotion has to be made in grades and not against vacancies. Persons promoted by virtue of application of reservation roster can be given accelerated promotion but not seniority. This judgment was affirmed in JT 1995 (7) SC 231, Union of India Vs. Vir Pal Singh Chauhan, in which it was explained how the roster points of reservation have to be operated. In short while rule of reservation has to be applied and the roster followed in the matter of promotions to or within a particular service, class or category, the candidate promoted earlier by virtue of rule of reservation/roster is not entitled to seniority over his seniors in the feeder category and

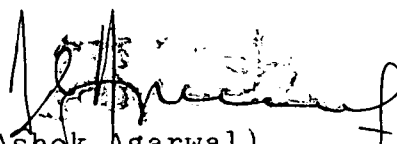


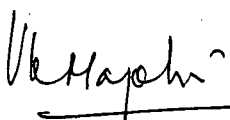
that as and when a general candidate is promoted he regains his seniority over the reserved candidate notwithstanding that he is promoted subsequent to the reserved candidate.

8. The respondents have admitted as stated above that the reservation roster for promotion of the skilled workers to the Highly Skilled Grade-II has not yet been maintained. They have also admitted that the applicants are eligible but they have not cleared the trade test as yet.

9. ~~The~~ facts and circumstances of the case, it is imperative for the respondents to immediately maintain a reservation roster for Highly Skilled Grade-II category and promote the applicants as per the roster points for SC category against the next available vacancies.

10. This OA is disposed of in terms of the above directions. No order as to costs.

  
(Ashok Agarwal)  
Chairman

  
(V.K. Majotra)  
Member(A)