

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 1220/1997

New Delhi, this 27th day of July, 2000

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

(9)

Sanjeev Gopal
Store Keeper
Dr.Ram Manohar Lohia Hospital
New Delhi .. Applicant

(By Shri Anil Mittal, Advocate, not present)

versus

1. Medical Superintendent
Dr. Ram Manohar Lohia Hospital
Baba Kharak Singh Marg, New Delhi
2. Secretary
Ministry of Health & Family Welfare
Nirman Bhavan, New Delhi
3. Kartar Singh
4. Birendra Prasad
5. Anil Bhatt
6. Babu Ram
7. Vijay Sharma
All working as Store Keepers
Dr.RML Hospital, New Delhi .. Respondents

(By Shri K.C.D.Gangwani, Advocate & Shri T.C. Sanduja, Advocate for Respondent No.3)

ORDER(oral)

Smt. Shanta Shastry

Neither the applicant nor his counsel is present.

Since this case pertains to 1997, we have proceeded to dispose of the same based on the pleadings available on record.

2. The applicant has challenged his non-promotion to the post of Store Keeper (SK, for short) in the year 1992 and his depressed seniority.

3. The applicant was initially appointed as Lower Division Clerk with R-1 after being selected through a competitive examination held by the Staff Selection Commission in 1984, the date of his actual appointment

being 27.11.86. He became eligible for consideration for selection to the post of SK as he had completed 5 years service according to the relevant Recruitment Rules. However, Shri Kartar Singh (R-3) who was also working as LDC and who had given option to be appointed as SK along with the applicant was appointed as SK in August, 1992. Applicant was not selected. Finally the applicant was selected and appointed in August, 1995 as SK. (20)

4. It is the grievance of the applicant that several of his juniors were considered for promotion to the post of SK. Some direct recruits also joined in the meantime. As a result the applicant went down in the seniority list. The seniority list was circulated on 25.10.94 wherein the applicant was shown senior to Shri Hira Singh and Mrs. Rajni Kumar but junior to Shri Kartar Singh and Vijendra Kumar. The applicant made representation against his non-promotion as well as his loss of seniority. However, the same was rejected. Applicant has further argued in his OA that since he was selected through competitive test through SSC in 1984, he had to be given seniority of the batch of that year irrespective of the date of joining the department and therefore his seniority should be counted from 1984. All along the applicant was eligible but he had been denied the promotion before 1995. The applicant has therefore prayed that his promotion to the post of SK should be treated as w.e.f. 10.9.92 and he should be given seniority accordingly above R-3 to R-7 and to pay him arrears of salary and other consequential benefits from 10.9.92.

5. Learned counsel for the respondents submits that in 1992 when selection was held for the post of SK the applicant was not the senior most. He was shown junior to Shri Kartar Singh and Shri Vijendra Kumar. This is because Shri Vijendra Kumar was appointed as LDC on 25.11.86 on compassionate ground whereas the applicant had joined as LDC on 27.11.86 on the basis of clerks grade examination of 1984. Also Shri Kartar Singh had joined the respondent much earlier i.e. in 1977 initially and he was regularised in the post of LDC w.e.f. 29.4.85, i.e. much before the applicant joined the department. Therefore their seniority was shown above the applicant in the seniority list. Cases of R-3 and the applicant were placed before the DPC held on 7.8.92 for giving promotion to the post of SK. The DPC recommended R-3. Again in the meeting held on 25.10.94 applicant's case was put up to the selection committee along with other candidates, however the applicant was not found fit for the post of SK. Thus the applicant could not be selected though his case was considered twice in 1992 and 1994. However in the DPC meeting held in 1995 for the post of SK, the applicant was finally found fit and therefore he was selected and appointed to the post of SK in August, 1995. Thus, no injustice has been done to the applicant as the respondents have followed proper procedure of selection and the applicant having joined later than R-3 or Shri Vijendra Kumar has no case.

6. The learned counsel for the respondents has also taken preliminary objection regarding limitation as the applicant is aggrieved by the promotion of R-3 in 1992 whereas he has approached this Tribunal in 1997. We agree that the application is barred by limitation. If

he had any grievance he should have approached us within one year of the cause of action or atleast within six months after he made representation to the authorities concerned. When his seniority was depressed on 25.10.94, even then the applicant did not question the promotion of R-3 or the seniority list. The applicant failed to approach this court in time. We are of the view that since the application is hit by limitation under Section 21 of the AT Act, 1985, the OA deserves to be dismissed on the ground of limitation itself. (22)

7. Even on merits, we do not find that the applicant has any case. Applicant was not senior to Shri Kartar Singh or Shri Vijendra Kumar who had joined much before the applicant as stated by the respondents. That apart he was given a fair chance in the selections held in 1992 and 1994 but the committee did not find him fit for the post of SK. One can not claim promotion as a right. One can only be considered for promotion. Respondents did not consider him for promotion but he was not found fit earlier. No relief as prayed can be granted to the applicant.

8. In the facts and circumstances of the case, the OA is dismissed. No costs.

b/audt J

(Smt. Shanta Shastry)
Member (A)

Ombyjindla

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

/gtv/