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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

CA.No.2331 of 1997

New Delhi, this 11th day of November, 2000

HON'BLE SHRI KULDIP SINGH, MEMBER(J)
HON'BLE SHRI M.P. SINGH, MEMBER(A)

Suraj Mal Dhiman
S/o Shri Girdhari Lal
R/o RZ-215/B Rajnagar I
Palam Colony Gali No.10
New Delhi

...Applicant

(By Advocates: Shri U. Srivastava and
Shri M.K. Gaur through
proxy counsel Shri Gyaneswar)

versus

Union of India, through

1. Government of National Capital
Territory of Delhi, through
The Secretary
Delhi Administration
Delhi

2. The Director
Directorate of Training and
Technical Education
Rouse Avenue
New Delhi

... Respondents

(By Advocate: Shri A.K. Chopra through
proxy counsel Shri A.K. Singh)

ORDER

Hon'ble Shri M. P. Singh, M(A)

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 against the inaction of the respondents by which the respondents have ignored him for grant of selection grade.

2. The brief facts of the case as stated by him are that he was appointed on the post of Industrial Craft Instructor in the grade of Rs.130-280 on 3.2.1983. Initially all the

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Industrial Training Institutes had two kinds of Instructors, viz. Junior Instructors (grade Rs.180-260) and Senior Instructors (grade Rs.210-380). In 1970 both these grades of Junior Instructors and Senior Instructors were merged into one grade of Rs.250-550, which was later on revised to Rs.470-750.

3. After the merger of the grades of Junior Instructors and Senior Instructors, a common seniority list was issued by the respondent no.2 vide order dated 21.7.1989. The respondents have granted selection grade to 93 Craft Instructors. However, grant of selection grade was kept in abeyance due to the fact that Writ Petition challenging the combined seniority list was filed in the High Court. The Writ Petition was later on transferred to the Tribunal and the Tribunal vide its judgement dated 31.5.1988 passed the order that the impugned combined seniority list is legal and valid.

4. According to the applicant, his name was not included in the common seniority list issued vide order dated 21.7.1989. He made a representation to the respondents. Subsequently 27 additional posts were created vide order dated 4.2.1991. The applicant made a number of representations for the grant of selection grade. However, the applicant was neither granted

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selection grade nor given any reply to his representations. He retired on superannuation on 31.7.1993. Aggrieved by this, he filed this OA seeking direction to the respondents to consider his case for grant of selection grade with all other consequential benefits as the same was granted to the similarly situated and junior persons.

5. The respondents have contested the case and have stated that the question of determining the number of selection grade was considered in 1978 on the same pattern as had been done for Delhi School Teachers of Delhi Administration. The criteria followed for determining the number of selection grade posts for School Teacher was 15% of the total number of permanent posts with effect from 5.9.1971 and 20% of permanent as well as temporary posts which have been in existence for more than three years with effect from 1.1.1973. Accordingly, the posts were created with effect from different dates vide order dated 2.8.1978.

6. Thereafter, D.P.C. considered the proposal for grant of selection grade against 47 posts in the category of Crafts Instructors, 2 posts in the category of Maths Instructor with effect from 5.9.71 and 32 posts in the category

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of Craft Instructors and 1 additional post in the category of Maths Instructor with effect from 1.1.1973.

7. The requirement for grant of selection grade was that those of the employees who have rendered 14 years of service in the same scale are entitled for selection grade subject to the following conditions:

- "1. Basis of the appointment will be merit-cum-seniority.
2. The zone of consideration should be limited to twice the vacancies.
3. Officer in the zone of the consideration should be outstanding, good, unfit on the basis of the record of service.
4. Those graded as unfit will not find place in selection list."

8. On the recommendations of the D.P.C. meeting held on 7.4.1979, 92 Craft Instructors including one S.C. were given the selection grade effective from different dates as per the availability of the vacancies. This matter remained pending due to the fact that there used to be two levels of Instructors in Industrial Training Institutes, viz. Craft Instructor (Junior) and Craft Instructor (Senior) having different seniority and different Recruitment Rules. Some of the Instructors challenged the combined seniority list of Craft Instructors in

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the Delhi High Court in CW.1594/81 and CW-173/82 which were subsequently transferred to the Tribunal. Consequent to the judgement of the Tribunal dated 31.5.1988, the proposal relating to selection grade was re-considered and the D.P.C. recommended 110 Craft Instructors for appointment in the selection grade. Subsequently 27 additional selection grade posts were created for grant of selection grade to Craft Instructors vide order dated 4.2.1991. After taking into consideration the previous backlog of SC/ST, 23 posts were reserved for SC/ST and 4 posts were unreserved. Since no candidate belonging to SC/ST fulfilling the criterion of having requisite experience of 14 years service was available, none was granted the selection grade. Only 4 persons of unreserved category were granted selection grade vide order dated 15.1.1992. 23 reserved posts could not be filled by unreserved candidates since there was a ban on dereservation of vacancies earmarked for SC/ST. The name of the applicant was at S1.No.124 of the seniority list. Though he had completed 14 years of service, he could not be granted selection grade because requisite number of selection grade posts were not available in the unreserved category. According to the respondents, persons upto S1.No.118 in the seniority list were granted selection grade and the applicant whose name



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appeared at Sl.No.134 could not be granted the selection grade. Selection grade was subsequently disallowed on the recommendation of Fourth Pay Commission. In view of the aforesaid reasons, the OA has no merit and the same deserves to be dismissed.

9. We have heard both the learned counsel for the contesting rival parties and perused the record.

10. During the course of the arguments, learned counsel for the applicant stated that the selection grade was granted to 110 persons who had completed 14 years of service in 1991. Thereafter 27 additional and posts of selection grade were created and some of the persons who were granted selection grade were promoted to the higher scale. Hence, the applicant at Sl.No.134 in the seniority list was within the number of vacancies available during the relevant period for grant of selection grade.

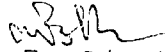
11. From the records placed before us, we find that the Craft Instructor upto Sl.No.113 in the seniority list belonging to unreserved category were covered and granted selection grade. The name of the applicant was at Sl.No.134 in the seniority list. Out of the 27



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additional posts created subsequently, 23 were reserved for the SC/ST candidates. As there was a ban on dereservation of the reserved vacancies these vacancies could not be dereserved and transferred to general category quota. Hence the contention of the applicant that he should have been considered against these 27 posts is not correct. In view of the aforesaid reasons, the applicant could not be promoted to the selection grade due to non-availability of vacancy. In the meantime, he retired on superannuation on 31.7.1993. The selection grade was also subsequently disallowed.

12. For the reasons recorded above, there is no merit in this OA and the same is accordingly dismissed. No order as to costs.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)

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