

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI:

O.A.NL.1383/94

New Delhi, this the 21st February, 1995

Hon'ble Shri J.P. Sharma, Member(J)

Hon'ble Shri P.T. Thiruvengadam, Member(A)

Shri R.N. Dagar,
s/o Shri Kishori Lal,
R/o 440, Sector-4,
Timarpur,
Delhi.

... Applicant

By Advocate: Shri V.P. Sharma.

Vs.

1. Union of India
through
Secretary,
Ministry of Defence,
Govt. of India, New Delhi.

2. The Director-General of Quality Assurance,
Warship Projects, H-Block DHQ,
New Delhi.

3. The Director General,
Quality Assurance (Naval),
West Block No.5,
R.K. Puram, New Delhi.

4. Shri S.C. Pachawri,
D, Man-II, DCQA (Naval),
West Block-5,
R.K. Puram, New Delhi.

... Respondents

By Advocate: Shri P.H. Ramchandani

ORDER (ORAL)

Hon'ble Shri J.P. Sharma, Member(J)

The applicant has a grievance of being treated junior to one Shri S.C. Pachuri in the seniority list declared by the respondents by the memo. dated 27.12.91. The name of the applicant is at Sl.No.7 while that of Shri Pachuri, Respondent No.4 is at Sl.No.6. The basis of gaining seniority over Shri Pachuri is that admittedly a D.P.C. was held in the year 1974 for promotion to the post of D/Man Grade II and in that D.P.C. the applicant was

Le

...2.

(6)
(10)

selected and a panel was prepared while Shri Pachuri though considered was not empanelled because of non selection. However, another D.P.C. was held in 1977 and in that ^{selection} ~~seniority list~~ the applicant was also considered because the panel ~~earlier~~ prepared with respect to D.P.C. held in 1974 was not given effect to because of an embargo on promotion as well as non availability of the post. In the meantime, recommendations of the Third Pay Commission were accepted by the Government and there was a merger of the pay scales.

2. The applicant in this application has prayed that the applicant be placed at higher position than Shri Pachuri, Respondent No.4 and the seniority list issued by the respondents by the memo. dated 27.12.91 be revised in that light.

3. The respondents, on notice, contested this application and took preliminary objection that the application is hit by limitation as the same has ^{not} been filed in time as provided under section 21 of the A.T. Act, 1985. Regarding D.P.C. held in 1974 it is said that there were only two vacancies and two persons who were higher in merit than the applicant i.e. Shri GV V Sathyanarayana and Shri B. S. Khurana were promoted to the post of D'Man-II and the rest of the enlisted candidates in the panel could not be appointed because of non availability of the vacancies. When the D.P.C. was held second time in 1978, there was a gap of more than one year and the earlier panel has lost its life. The applicant, therefore, has to be reconsidered and thereby he was selected along with Shri Pachuri. The applicant therefore has no case on merit also.

7
11

4. We have heard the learned counsel for the applicant as well as Shri P.H. Ramchandani for the respondents and perused the ~~filed~~ ^{earlier to} as well as annexures alongwith pleadings of the parties.

5. It is not disputed that the date of joining of Shri Pachuri ^{Sept} in May, 1967 was ~~above~~ ^{earlier to} that of the applicant in 1967 and he has also been considered senior to the applicant by virtue of earlier date of joining on the feeder post. However, since the enlistment of panel of 1974 did not last because of non availability of vacancy and embargo on promotion and the recommendations of the Third Pay Commission where certain pay scales were merged together, the selection of the applicant and the D.P.C. of 1974 remained only an academic interest. He could not get any benefit out of this selection though Respondent No. 4 Shri Pachuri did not make a grade in that selection for empanelment. But the applicant cannot only because of this claim a march over Shri Pachuri when both of them were considered in the next D.P.C. held in 1977 and the D.P.C. listed Shri Pachuri higher than the applicant because date of joining has been earlier, he has to become senior and has been rightly projected in the seniority list notified in December, 1991.

6. The respondents have also referred to the fact that in the seniority list of 9th September, 1988 Shri Pachuri has been senior to the applicant. The name of Shri Pachuri being at Sl.No.7 and that of applicant at Sl.No.3. The seniority list of D'man-II of 1988 has not been challenged in this O.A.

...4.

le

8
12

7. In any case we have considered the case on merit also and we find that the applicant has no case at all. The application is therefore dismissed as devoid of merit with no order as to costs.

P. J. 26
(P.T. THIRUVENGADAM)
MEMBER(A)

Jomane.
(J.P. SHARMA)
MEMBER(J)

'rk'