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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI.

O.A.No.1837 of 1989

New Delhi, this the 19th day of April, 1994.

Hon'ble Mr C.J.Roy, Member(J)

Hon'ble Mr B.N.Dhoundiyal, Member(A).

Mange Ram S/O Shri Sant Lal
House No R-Z-168-D-V Block,
Sector-A, Uttam Nagar,
New Delhi-59.

... .. Applicant.

(none appeared).

vs.

1. Union of India
through
Secretary,
Ministry of Health,
New Delhi.

2. Medical Supdt.,
Dr. Ram Manohar Lohia Hospital,
New Delhi.

3. Shri Gian Singh Rawat,
Havaldar, Dr. Ram Manohar Lohia Hospital
New Delhi. Respondents.

(none appeared).

ORDER (ORAL)

(delivered by Hon'ble Mr C.J.Roy, Member(J))

This is an old case pre-emptorily posted for hearing in the first ten cases. Therefore, we are disposing of this case on the basis of the available records on file.

The applicant was appointed as Nursing Attendant in Dr. Ram Manohar Lohia Hospital, New Delhi w.e.f. 24.9.1977. He is an ex-serviceman and claims having 15 years service in the Armed Forces of Union. He also states that he gets pension from Armed Forces. The applicant states that the post of Hawaldar in Dr. Ram Manohar Lohia Hospital is to be filled from class-IV

employees. He prays for the following reliefs:-

- (i) To quash memo No. 8-27/89/RMLH/NS/2975 dated 1.9.1989; of the Medical Supdt. Dr. Ram Manohar Lohia Hospital.
- (ii) To quash order of appointment of Sh. Gian Singh Rawat in the post of Havaladar w.e.f. 25.2.1987;
- (iii) To appoint the applicant in the post of Havaladar;
- (iv) To order for the payment of salary against the post of Havaladar to the applicant from 25.2.1987.

We have seen the counter filed on behalf of the respondents. The respondents have assailed that the post of Havaladar is a non-selection post and was filled on 25.2.1987 and no preference was given to the ex-serviceman. It is stated that the D.P.C. proceedings dated 3.4.1987 are valid and legal. They alleged that the appointment of Shri Gian Singh Rawat is in accordance with the recruitment rules and he has been appointed on the post of Havaladar on the basis of the recommendations of the duly constituted D.P.C. w.e.f. 25.2.1987. They state that the representations made by the applicant were received and they were also properly disposed of and the rejection of the applicant's case is not illegal. They also state that the post of Havaladar has been filled up strictly in accordance with notified Recruitment Rules. The Recruitment Rules says for the post of Havaladar, the candidate should be matriculate with experience in handling labour preferably ex-servicemen. The post has to be filled up by non-selection and the age should be within 30-40 and the promotions should be given from the various class-IV employees with Police

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Military service and the promotion is for 100% promotees failing which by direct recruitment. The age is not applicable to the promotees.

In this case we find nowhere that the past military service has been shown as essential qualification. It is merely a preference but not an essentiality. It is also mentioned that promotions from Class-IV employees with Police/Military service. Here, in this case the Respondent No.3 i.e. Sh. Gian Singh Rawat was selected by a duly constituted D.P.C. strictly in accordance with the notified recruitment rules with police and military service on the basis of seniority and he belongs to Group-D staff with military service. Therefore, it is not wrong to say that when the word preferably is used orally ex-serviceman should be appointed is not correct deduction. The recruitment rules do not speak that the post is only meant for ex-servicemen. In fact, the post of Havaldar has to be filled up with the qualification mentioned under Col.12 'Promotion from Class-IV employees with Police/Military service and the respondents have done it correctly and done through a duly constituted D.P.C. When the 100% promotion on the basis of seniority i.e. non-selection is mentioned in the recruitment rules, the question of giving preference to ex-serviceman does not arise. Since the Respondent No.3 was duly appointed after the recommendations were duly constituted by the D.P.C. we are not inclined to interfere in this case. The applicant's representation dated 1.3.1989 was replied vide memorandum dated 1.9.89 that his case was also put up before the review D.P.C. on 21.8.89 (Annex.A1) and basing on their opinion according to recruitment rules the post being a 'NON SELECTION' was filled up on 25.2.1987 in accordance with the seniority. The qualification of being ex-serviceman was not essential.

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and only preferable. Therefore, the applicant's claim is rejected.

With the above observations, the O.A. is dismissed.

There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL)
MEMBER (A)

C.S. Roy
(C.S. ROY)
MEMBER (J)

/vv/