

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO.1949/89

DATE OF DECISION: 20th Dec 91

SH. JAINTI PRASAD GUPTA APPLICANT

VERSUS

UNION OF INDIA & ANOTHER RESPONDENTS

CORAM:-

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

THE HON'BLE MR. P.C. JAIN, MEMBER(A)

COUNSEL FOR THE APPLICANT : SH. B.B. RAVAL

COUNSEL FOR THE RESPONDENTS : SH. N.S. MEHTA, SR.
STANDING COUNSEL.

JUDGEMENT

(of the Bench delivered by Hon'ble Mr. T.S. Oberoi, Member(J)).

In this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who is presently serving as an Asstt. Central Intelligence Officer Grade-II (Wireless Telegraphy), ACIO-II WT, in short), is aggrieved of his alleged super-session for being not promoted as ACIO-I (Work Shop), and has prayed for the following reliefs:-

(i) to direct the respondents to promote the applicant from the date of his junior was promoted either in WT Section or if necessary, by allotting him to Workshop Cadre, if any;

(ii) to allow him the difference of pay and allowance accruing thereupon alongwith 24% interest till date of relaisation;

and

(iii) to award the cost of the application and any other relief/reliefs that this Hon'ble Tribunal deems fit in the light of the circumstances of the case.

2. The applicant's case briefly is that he was appointed as Junior Intelligence Officer (Tech.) (Engine), with effect from 15.2.1967, vide order Annexure A-I to the O.A. and was later promoted as A.C.I.O.-II (W.T) in 1975, vide order dated 10.12.1975. Thereafter, he remained posted from 1967 to 1987, at far-flung stations, where he was required to undertake extensive tours, to repair the engines and generator sets, at various check-posts and out stations. He had acquired proficiency and skill in repairing and setting in order, the Engines and Generator sets, as mentioned above, in so much so that he retrieved and refabricated, more than three dozen Power Engine Generators, which were declared as condemned, and many of them are still working satisfactorily, thereby causing savings of lakhs of rupees to the organisation. In 1987, he was posted at Aizwal, in Mizoram, when he learnt that in the month of February, 1987, Sh. J.R. Yadav and Sh. J.M. Sharma, who were promoted as ACIO-II(WT), vide the same Order No.3/SIB/JK/PF(K)358 dated 10.12.1975, were promoted as ACIO-I(WS). They stood at Serial

No.4 and 6, respectively, in the seniority of J.I.Os. & C.I.Os-II(P.21-23 of the paper-book), thereby showing that Sh. J.R. Yadav was junior to him, as the applicant was at S.No.5, in the said seniority. Accordingly, he represented to his departmental officers (A-4, A-6 & A-7), including personal interviews (A-9) sought by him, to get his grievances redressed, but without any success as may be seen and from A-10, and A-11 & A-13), hence this application.

3. The applicant's case further is that he possessed all the requisite technical qualification, for the promotion of ACIO-I (WS) and that the respondents had wrongly and arbitrarily allocated W.S. cadre to S/Sh. J.R. Yadav and J.M. Sharma, and on learning about such options having been asked for the allocation to the said cadre, he had also applied, but his request was not acceded to, resulting in his being ignored for the said promotion. He also alleged that certain other officers who were much junior to him in the common seniority and were even promoted later to him, as ACIO-II(WT), had been arbitrarily promoted as ACIO-I(WS), to his prejudice and detriment. He named certain officers, in his rejoinder as well as supplementary rejoinder, who were so promoted.

He also stated that the Directorate of Technical Labourer (DTL), also a branch under the Intelligence Bureau, does not require the W.T. personnel working under them, to pass the Advanced Maintenance Course (AMC), as a pre-condition for promotion, nor the passing of the same is incumbent, for the employees, similarly working in the Research & Analysis Wing (R&AO), which is also an off-shoot of the Intelligence Bureau.

4. The respondents have contested the applicant's case. In the counter filed by them, the respondents had stated that a number of junior Intelligence Officers, with technical trade qualification, recruited till 21.12.1973, for maintenance duties in W.T. cadre, under the nomenclature of JIO-Tech., were initially grouped under one seniority list, with separate identity. But an internal executive order was issued on 18.6.1975, and these JIOs-Tech. were allotted to three different cadres i.e. WT/Tech./Workshop, according to their trade qualifications. Accordingly, S/Sh. J.N. Sharma and J.R. Yadav, though figured at Serial No.4 and 6 of the common seniority list, were later shifted to Work Shop cadre, with separate recruitment rules, notified for the Work Shop cadre. Options from J.I.O-I(WT) including those promoted as A.C.I.O-II(WT), who possessed the trade qualifications, such as Fitter, Turner, Machinist, Electrician,

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Tool Maker and Painting or Decoration, were called for induction, in the Work Shop cadre. The applicant was not only not qualified to be inducted into the WS cadre, as he was having the trade of Motor Mechanic, but he also did not apply for the same, within the time, and as such he could not be inducted into Work Shop cadre, and in reply to various representations, received from him, he was duly informed that as he did not possess the appropriate trade, he could ^{not} be considered for being included in the Work Shop cadre. He was also told that S/Sh. J.N. Sharma and J.R. Yadav had been inducted in the Work Shop cadre, and were promoted as ACIO-I(WS), according to their seniority position in the respective seniority list, and that the applicant will be given promotion as ACIO-I(WT), according to his position in the seniority list for W.T. cadre. It was also stated by the respondents that as the applicant was within the zone for consideration for promotion, he was called for Advance Maintenance Course Training, to enable him to get promotion to the rank of ACIO-I(WT), but he did not join the training, with the result that he could not be promoted as such, in accordance with the recruitment rules. As regards applicant's assertion that the requirement qualification for A.M.C. training was not required in certain other services, it was stated that the said services

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are entirely different, with different recruitment rules. Rejoinder and an additional rejoinder by the applicant and the additional reply, by the respondents, were filed in which also the respective stands, taken up in the application and the counter, as briefly discussed above, were reiterated.

5. We have also heard the learned counsel for the parties, and have perused the record carefully.

6. Precisely speaking, the applicant's grievance emanates from:

(i) his alleged super-session by his junior Sh. J.R. Yadav and arbitrary allocation of W.S. cadre to S/Sh. J.N. Sharma and J.R. Yadav;

(ii) some others such as Sh. S.C. Nath and three others, mentioned in the additional rejoinder, namely, S/Sh. Avinash Chand Jain, Kailash Chand and Mani Ram Sharma, having been exempted from passing the A.M.C., and

(iii) certain other branches such as DTL and R&AW not insisting upon the qualification of passing the AMC, for promotion.

After carefully considering the submissions made by the learned counsel for both the parties

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and also after perusing the material on record, we are of the view that so far as allocation to the cadre is concerned, though options were invited from all eligible persons, the applicant did not submit his application, in time, nor did he belong to any of the requisite trades and therefore, his name could not be included in the W.S. cadre. As regards the grievance that some other branches under the I.B. do not insist on the passing of AMC, and that this should be made applicable in case of the applicant, because of his experience in varied technical trades, we refrain from expressing any opinion, as, to our mind, judging the technical proficiency, and fitness or otherwise, falls outside the domain of judicial review, and comes within the purview of the concerned respondents. The department may, however, consider this aspect of applicant's case, on the basis of his representations made by him, about which, according to the applicant (Annexure 11&13), he was assured of favourable action, keeping in view his spell of service as A.C.I.O.-II(WT) and with a view to avoid stagnation to him.

The application is disposed of with the above observations, with no order as to costs.

(P.C. JAIN)
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MEMBER(A)

(T.S. OBEROI)
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MEMBER(J)