

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A.2012/89

Date of decision: 12/4/92

K.K.Garg

.. Applicant.

Versus

Union of India & Ors. .. Respondents.

Sh.K.L.Bhatia

.. Counsel for the applicant.

CORAM:

The Hon'ble Sh.Justice Ram Pal Singh, Vice Chairman(J).

The Hon'ble Sh.I.P.Gupta, Member(A).

J U D G E M E N T

(Delivered by Hon'ble Sh.I.P.Gupta, Member(A) ).

This is an application filed under Section 19 of the Administrative Tribunals Act, 1985. The applicant was appointed as Radio Operator under the Director General of Civil Aviation in 1963 and he was appointed as Communication Assistant in 1982. He was sent on deputation to the National Airport Authority vide order dated 30th May, 1986. He was absorbed in National Airport Authority in 1990.

2. The grades of Radio Operator and Communication Assistant were reported to have been merged in one grade in 1982. The promotion from the post of Communication Assistant/Technical Assistant is to the post of A.C.O. The Recruitment Rules of 1977, as referred in O.A. 952/87, decided by Principal Bench on 9.8.89 (enclosed with the application and as elaborated in para 4.4 of the application itself) states that a Communication Assistant is eligible for appointment as Assistant Communication Officer if he fulfils the following:-

Promotion:

a) Technical Assistant.

b) Communication Assistant.

i) With 3 years service in the trades in

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the case of those possessing a degree in Electrical Engineering or Radio Engineering or Telecommunication Engineering of a recognised University or equivalent.

- ii) With 5 years service in the grades in the case of those possessing a diploma in Electrical Engineering or Radio Engineering or Telecommunication Engineering of a recognised University or equivalent.
- iii) With 5 years service in the grades of those who do not possess either a degree or a diploma in Electrical Engineering or Radio Engineering or Telecommunication Engineering but have passed the qualifying examination held by the Director General of Civil Aviation.
- iv) Persons holding the post of Technical Assistant or Communication Assistant on the date of promulgation of these rules and fulfilling the following conditions shall be eligible for consideration for promotion, without having to pass any qualifying examination:
  - a) should be either permanent or quasi-permanent in the grade.
  - b) Should be at least Matriculate or should possess equivalent qualifications.
  - c) Should have at least 5 years service as Technical Asstt.

**NOTE:**

In case Technical Assistant or Communication Assistant with the requisite length of service as indicated at (i) to (iii) equal to the number of posts above, are not available for consideration for promotion, Technical Assistants or Communication Assistant with a combined service of 10 years in the grades of Technical or Communication Assistants and Radio Technicians or Radio Operators respectively would be considered for promotion".

3. According to the learned counsel for the applicant no qualifying examination has been held by the Director General of Civil Aviation, as referred to in (iii) above, since 1978. The applicant attended a three months training course at C.A.T.C., Allahabad

and according to the learned counsel for the applicant, Communication Assistants who attended the training course have been promoted as A.C.O.. The applicant, however, had failed in the qualifying test due to his physical disability. He is a handicapped person.

4. The learned counsel for the applicant argued that several juniors to the applicants have been promoted who have not even attended the course at C.A.T.C.

5. The relief sought is that the respondents be directed to promote the applicant to the post of A.C.O. w.e.f. the date his juniors were promoted and the applicant be paid his pay and allowances accordingly.

6. The learned counsel for the respondents contended in the counter that:-

- i) The National Airport Authority is an autonomous body which was formed under National Airports Authority Act, 1985 and the Hon'ble Tribunal does not have jurisdiction to entertain the present petition. The case of Sh.Chaman Singh is different from the applicant, in that he was not absorbed as an employee of National Airports Authority, whereas the applicant has been absorbed.
- ii) The applicant does not fulfil the conditions of recruitment rules.
- iii) All officials who were promoted to the post of Assistant Communication Officers under (iii) had completed the S.C.A. course and passed the departmental examination at C.A.T.C. ,Allahabad.

7. On an analysis of the above facts it is observed that the applicant was absorbed in National Airports Authority (N.A.A.) only in 1990. Prior to that he was governed by the Rules and Regulations of employees serving under the Director General of Civil Aviation. Therefore, his case for promotion prior to 1990 can be considered by the Tribunal.

8. However, it is observed that the applicant does not possess a degree or diploma in Electrical Engineering or Radio Engineering or Telecommunication Engineering. He has not passed the qualifying examination held by Director General of Civil Aviation. He did not hold the post of Technical Assistant or Communication Assistant on the date of promulgation of the recruitment rules. He, therefore, does not fulfil the conditions of the recruitment rules, as mentioned at sub-paras i) to iv). According to the note reproduced on page 2 of the order the applicant does have a combined service of ten years in the grade of Communication Assistant and Radio Operator. He can, therefore, be considered for promotion as Assistant Communication Officer, provided Technical Assistant or Communication Assistant with requisite length of service indicated at i), ii) and iii) reproduced in para 2, are not available to the extent of the number of posts to be filled.

9. In the conspectus of the aforesaid facts and in the above view of the matter we direct that the case of the applicant (a handicapped person) for promotion should be considered in terms of the note below the recruitment rules quoted in para 2 at page 2, provided Technical Assistants or Communication Assistants with requisite length of service, as indicated at i) to iii) are not available to the extent of the number of posts to be filled. Such consideration of the case

of the applicant should be done w.e.f. the date his juniors have been promoted. The applicant's case should also be considered in terms of para iii), if it is true that the qualifying examination has not been held since 1978 and any person junior to the applicant without a degree or diploma in the prescribed discipline has been promoted even though he had not passed the qualifying examination. If after consideration as above, according to Rules, ~~if~~ the applicant is found fit for promotion, he should be so promoted with consequential benefits.

10. With the above direction and order the case is disposed of with no order as to costs.

11. The case was heard ex-parte since the counsel on behalf of the respondents had not attended on 4 or 5 earlier occasions and it was ordered on 6.4.92 that the case would be heard ex-parte on 7.4.92. The case was finally heard on 8.4.92 with due listing.

*I.P. Gupta*  
(I.P. GUPTA) 13/4/92  
MEMBER(A)

*Ram Pal Singh*  
(RAM PAL SINGH) 14.13.91  
VICE-CHAIRMAN(J)