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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO.2435/89

DATE OF DECISION: 6.3.1992.

SHRI TAQDIR RAM

....APPLICANT

VERSUS

UNION OF INDIA

....RESPONDENTS

CORAM:-

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

HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANT

SHRI T.C. AGGARWAL, COUNSEL.

FOR THE RESPONDENTS

SHRI M.L. VERMA, COUNSEL.

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A)

T.S. Oberoi
(T.S. OBEROI)
MEMBER(J)

6.3.92.

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(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE
MR. I.K. RASGOTRA, MEMBER (A))

The principle question raised in this Original Application, filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 is whether he can be denied promotion to the category of Motor Pump Attendant (MPA) after having declared 'pass' in the trade test conducted by the respondents on the ground that he is not in the direct line of promotion for that category.

2. The undisputed facts of the case are that the applicant was allowed to appear in the trade test held on 26.10.1987 under the category of Mate/V'Man to MPA. The employees working in the following areas were stated to be eligible "in direct line of the promotion" as per Recruitment Rules vide Part I order dated 10 December 1987 by CWE (P) Delhi Cantt:-

"(a) MPA to Refg Mech

(b) Maz/S.Wale/Chow to Valveman

(c) Mate to Mason

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(d) Mate/V'man to MPA.

(e) Carpenter to cabinet maker"

The applicant was found eligible and recommended by GE (R&D) Delhi for the Trade test vide letter dated 15 December, 1987. The applicant was declared as 'pass' and placed at srl. No.21 of the successful candidates vide order dated 18.12.1987. However, when he was not promoted to the post of MPA he submitted several representations. These were disposed of by the respondents by stating that "Mate is only direct line of promotion to MPA and under existing policy on the subject the individual should pass T/T test of Mate (MPA) for further promotion to MPA. The individual (MES) 369, 863 Shri Taqdir Ram, V'man please be informed suitably."

The applicant seems to have been accordingly advised vide impugned letter dated 26.7.1988. Aggrieved by the above, the applicant has approached the Tribunal.

3. By way of relief the applicant prays that the respondents be directed to promote the applicant as MPA from the date he qualified in the trade test with all consequential benefits.

4. While the facts of the case are admitted the stand of the respondents is that the applicant belongs to Valveman category and that he is not in the direct line of promotion, as Valveman are not in the feeder category for promotion to MPA, as advised on 9.1.1988 by the C.W.E.(P) Delhi Cantt that Valvemen cannot be considered for promotion to the category of MPA, being not in line of promotion.

5. The learned counsel for the applicant Shri T.C. Aggarwal in support of his case cited the case of **Smt. Lalita Rani v. UOI ATR 1990 (1) CAT 97**. In this case the applicant had appeared in the special

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qualifying examination limited to adhoc employees working as LDCs for purposes of regularisation of her service in the grade of LDC as per the scheme laid down in the Department of Personnel and Administrative Reforms OM dated 17.8.1983. She was declared successful in the examination even though according to the respondents she was not eligible, as she had not completed the minimum of one year's service as adhoc employee in the Central Government. Relying on the decision in the case of **Prem Prakash etc. v. UOI & Ors. AIR 1984 SC 1831** the Tribunal held that "once a candidate has been finally selected after examination/test he/she has to be appointed."

6. We have heard the learned counsel for both the parties and considered the matter carefully. We have also perused the compilation of Military Engineer Services Standing Orders, 1971 issued by the Engineer-in-Chief, Army Headquarters, 1977 and filed by the respondents to indicate the channel of promotion for the various categories. According to the said Compilation the Mates/ Valveman can seek promotion after passing the recruitment trade test for the post of Pipe Fitter whereas for the post of MPA, Mazdoors, Chowkidars and Sweepers who have passed recruitment trade test alone would be eligible. We find that the compilation does not make mention of the Mate/V'man whereas according to the letter cited above Mate/V'man are eligible for promotion to MPA. Section 2 of the Rules for Recruitment and Promotion of the compilation also makes the following provisions:-

"....No departure from this procedure is permitted except with the express prior approval of the Govt. or where general Govt. orders already provide relaxation of the procedure for re-employment of retrenched workmen/casual personnel, and certain

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other specified categories.

2. Promotions are made to higher posts declared in direct line from lower posts as per Recruitment Rules.

3. Appointment of serving employees to higher posts which are not in direct line of promotion, is to be treated as 'reclassification.'

It will thus be apparent that the rules do not prohibit but the employees who are not in direct line of promotion if they are qualified for promotion to the post of MPA. We also observe that the Standing Orders were issued in 1971 while there has been reclassification of industrial employees in pursuance of the recommendations of categorisation/classification Tribunals/Committees set up in accordance with the recommendations of the Third Pay Commission in mid/late seventies. It is intriguing to observe that while unskilled personnel can become MPA in higher scale of pay semi skilled persons like Valveman are denied such an opportunity in accordance with the compilation. It is to be noted here that MPA has been placed in pay scale of Rs.950-1500 i.e. higher than the scale of pay allotted to pipe fitter w.e.f. 1.1.1986, although prior to 1.1.1986, both the posts carried the same scale of pay. Be that as it may, we are of the view that the applicant has been trade tested and on the reckoning of the respondents had been declared successful and had been empanelled for the post of MPA. The rules also provide that an employee outside the direct line of promotion can also be promoted to a higher post by reclassification.

In the circumstances we consider it just and fair to allow the O.A. and to direct the respondents to promote the applicant against one of the vacancies

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for which the trade test was held and results declared in December, 1987. His pay shall also be fixed notionally from the date of promotion on which the last vacancy as per assessment of 1987 was filled and for which he was trade tested and declared successful in December, 1987. He shall also be entitled to seniority above any employee promoted as MPA on the basis of the trade test held after December, 1987. The respondents are further directed to implement these orders most expeditiously but preferably within 12 weeks from the date of communication of this order. No costs.

I.R. Rasgotra
(I.R. RASGOTRA)

MEMBER(A)

6/3/92

March 6, 1992.

T.S. Oberoi
(T.S. OBEROI)

MEMBER(J)

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