

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 2005/1988
and 912/90

New Delhi, dated the 23th Feb., 1994.

Hon'ble Sh.N.V.Krishnan, Vice Chairman (A)

Hon'ble Sh.B.S. Hegde, Member (Judicial)

Shri P.N.Gandhi,
TA-1 (Pump Operator)
(C&P Branch)
Forest Research Institute
and College, New Forest,
P.O. Dehradun.
C/o J.G. 1-59-A Vikas Puri,
New Delhi

... Applicant

(By Advocate Sh.M.L.Chawla,
proxy counsel for Sh. P.T.S. Murthy)

Versus

1. Union of India through
The Secretary,
Ministry of Environment, Lodhi Complex
New Delhi.
2. President,
Forest Research Institute and Colleges,
P.O. New Forest, Dehradun.

.... Respondents

(None for the respondents)

ORDER (ORAL)

Neither the applicant nor his counsel is
present though this case has been called out twice. Sh.
M.L.Chawla, Advocate stated that Shri Murthy was busy
in High Court and requested that this case be adjourned.

2. This case is listed at serial No.4 in today's
cause list under regular matters with a note to the

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counsel, that the first 10 cases are posted peremptorily for final hearing. We notice, that this case has been adjourned twice on 10.12.1993 and again on 25.1.1994 with an observation that a last opportunity was being given to the applicant to produce rules to satisfy this court, that it has jurisdiction in this case.

3. As none is present today for the applicant and as this case is listed peremptorily for final hearing. We have decided not to grant any adjournment in this case and we proceed to pass final order after ^{perus} ~~hearing~~ the ~~respondents~~. ^{records}

4. This application was filed on 30.9.1988 when the applicant was Tech. Assistant-I (Pump Operator) in the O/O the Forest Research Institute and College, Dehradun under the second respondent. The applicant has two grievances. The first relates to his promotion from Tech. Asstt. ^I ~~I~~ to Tech. Asstt. ^{II} ~~II~~ from the date his junior were promoted. The second relates to ignoring and expunging adverse remarks in his CR.

5. The application was admitted. Direction was issued on 16.11.1988 that as there are two reliefs sought by the applicant would pay Rs 50/- for the additional remedy so that it could be treated as separate application. This being

done, this OA has been given as additional registration Number 912/90. In the circumstances, our order will dispose of both OAs 2005/88 and OA-912/90.

6. We have seen the application filed by the applicant. He entered service under the second respondent as Tech. Assistant Grade-I (Pump Operator) on 11.10.1965 through direct recruitment. Till date he is continuing on that post. His grievance is that he has not been given promotion, though his juniors have been promoted. It is alleged that this has been deliberately done by the respondents as the applicant belongs to a Sch. Caste and he was also the Genl. Secretary of FRI Mazdoor Union INTUC.

7. He alleges that as a result of an incident which took place in 1972, he was asked in writing not to handle any work, but to sit idle. The order dated 9.8.92 is at Ann.1. Despite his request, he was not given any work. The post of pump operator was thus vacant from 9.8.1982. It was not filled up. Ultimately, it was abolished. His grievance is that, thereafter, he has not been promoted.

8. His second grievance is that continuously adverse remarks were being recorded in the ACRs which are entirely unjustified. In 1983, an enquiry was ordered

on a charge relating to negligence of duties(Ann.A.2) in which ultimately, the applicant was exonerated and let off with the warning" to be more attentive in your work in future(Ann.A.3)". Yet, adverse remarks has been entered based on this incident as seen from the ACR, 1984

9. It is alleged that these remarks have also been made deliberately for the same reasons as mentioned above i.e. because he was a member of Sch.Caste community and he was also General Secretary of FRI Mazdoor Union, INTUC.

10. Respondents have filed^a reply stating that applicant is not entitled to any relief. It is admitted, that the applicant was appointed as Tech.Asstt.Grade.I (P.O) and he was been declared Quasi Permanent after completing his probationary period satisfactorily. This is an isolated post filled by direct recruit and that this not a feeder category for any post on promotion.

11. There are other posts of Tech.Asstt.Grade.I i.e. Machine Operator for whom an avenues of promotion are available i.e. to the post of Tech.Asstt.Grade.II (Asstt.Foreman)

12. Taking note of these deficiencies, the Recruitment Rules were amended vide notification

dated 25.5.1993. By the amendment, the post of Tech. Asstt. Grade .I pump operator held by the applicant was clubbed with Machine Operator so that the holder of this post also been be considered for promotion.

13. It is stated that only the Tech. Asstt. Grade I (Machine Operator) who were in position before this amendment, have been promoted and that, after the amendment, no junior to the applicant in the clubbed cadre of Tech. Asstt. Grade .I (Pump Operator and Machine Operator) has been promoted. Therefore, the applicant can not have any grievance in this regard.

14. It is also admitted, that adverse remark have been entered in the ACRs of the applicant and these have been communicated to him and the representation, received was considered and rejected. It is also stated that, on this basis, the case for crossing E.B. was also not considered and DPC did not find him fit to cross the E.B w.e.f. 1.1.1986. In the circumstances, respondents contend that OA is without any merit and should be dismissed.

15. When the matter came up on 10.12.1993, it was apparently submitted that the F.R.I. and College, Dehradun have been converted into a registered society w.e.f 1.3.90

It is on the basis of this information that the Learned counsel for the applicant was asked to state whether this Tribunal has jurisdiction over this society, in the light of the provisions of Administrative Tribunals Act, 1985.

He was directed to produce the necessary rules which has not been produced so far. We have considered the matter, We notice that as the FRI, College Dehradun was converted into a Regd. Society, this Tribunal cannot have jurisdiction in respect of matters arising after it became a Regd. Society. In so far as the grievances in this OA are concerned, they relate to the period ^{before} the FRI was converted into the Regd. Society w.e.f. 1.3.90

16. We notice that so far as his grievance relating to promotion is concerned the applicant has not furnished any information as to who his junior was who has been promoted to the next higher rank. On the contrary, respondents have clearly established that upto 1983 i.e. before the recruitment rules were announced, the post held by the applicant was an isolated post and it was not a feeder category post for any higher post to be filled up by promotion. After the merger of Tech. Asstt. Grade. I Pump Operator and Machine Opt. by amending the rules in 1983, none junior to the applicant has been promoted. Even in the rejoinder filed by the applicant, he does not give any information to the contrary.

17. We, therefore, find no merit in the first grievance.

18. In so far as the second grievance regarding adverse remarks in the ACR is concerned, the OA is lacking in essential details. The applicant has not produced either extract of the adverse remarks communicated to him or the representation, if any, which he made against this remarks or the final order of the rejection passed by the second respondents. In their reply, the respondents have stated that representation against adverse remarks for the year 1984-85 have been rejected. The applicant has not challenged this statement against remarks. In the circumstances, we find no merit in the second grievance also.


19. At this stage Shri M.L.Verma, learned counsel for the respondent appeared.

20. For the above reasons both OA 2005/88 and OA 920/90 are dismissed.

(B.S. Hegde)

Member(J)

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23.2.94
(N.V. Krishnan)

Vice Chairman(A)