

Central Administrative Tribunal
Principal Bench
New Delhi.

OA No.904/88

New Delhi this the 16th Day of November, 1993.

The Hon'ble Mr. N.V. Krishnan, Vice-Chairman
The Hon'ble Mr. B.S. Hegde, Member (J)

Man Singh S/o Shri Khen Singh,
8, Ranjit Place, Kali Bari Marg,
(Near Birla Mandir)
New Delhi.

...Applicant

(By Advocate Shri K.L. Bhatia)

Versus

1. Union of India through the
Secretary, Ministry of Agriculture
and Cooperation (Deptt. of Agriculture),
Krishi Bhawan, New Delhi.

2. The Chairman,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi.

...Respondents

(By Advocate: None)

ORDER (Oral)

(Hon'ble Mr. N.V. Krishnan)

The applicant is aggrieved by the fact that he has not been considered for promotion to the post of semi skilled fitter in the Delhi Milk Scheme (DMS for short). Admittedly, the applicant has worked on the post of mate in the transport workshop of the D.M.S. for about 14 years. The recruitment rules have been exhibited as Annexure A-4, which show that this is a non-selection post and it will be filled up by promotion, failing which by direct recruitment. The promotion is to be made from mates of the transport workshop other than the mates of auto electrical and tyre units with three years' service in the grade in the transport

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workshop. It is contended that the persons junior to the applicant in accordance with the seniority list at Annexure-A-2 have been promoted on 9.9.87, but the applicant was not considered for promotion. The applicant filed a representation on 15.9.87 at Annexure A-3 in regard to his grievance, but no reply has been received. Hence, he has filed this O.A. on 16.5.1988, seeking the following reliefs:-

- "(i) That the respondents may be directed to promote the applicant to the post of Semi-Skilled Fitter from the date his juniors were promoted.
- (ii) That the respondents may also be directed to include the name of the applicant in the Office Order No.35(5-4/87-Estt.II dated 8.9.1987) above his junior Viz. S/Shri Pema, Likhni Ram and Lakshmi Chand.
- (iii) That the applicant may be paid arrears of salary and allowances for the post of S.S. Fitter from the date of his promotion to the post of S.S. Fitter as prayed above."

2. The respondents have filed a reply, in which the facts are substantially admitted. The reply in paragraph 6.4 states that seniority has not been taken as a criteria for promotion but as per the decision of the competent authority the date of posting of mate in the particular branch/trade is taken as seniority, irrespective of their date(s) of appointment to the post of Mate.

3. It is also stated that the applicant was not considered on this ground and also that there were two vacancies which fell at points 12 and 13 which are unreserved. Lakhni Ram, a person junior to the applicant has been appointed to one of the posts. The respondents have also taken the objection that the applicant has not impleaded the necessary parties.


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4. We have heard the learned counsel for the applicant. In the circumstances of this case, it was not necessary for the applicant to implead the others who have been appointed on the posts of Semi Skilled Fitter because his grievance is that he has been denied consideration on a wrong interpretation of the rules. We do not find any substance in the contention of the respondents that seniority as mate has to be determined with reference to the date of posting in a particular branch. There is no such specification in the Annexure A-4 recruitment rules.

5. In the circumstances, we are satisfied that the applicant has been denied consideration for promotion illegally. We, therefore, direct the second respondent to consider the applicant for promotion with effect from the date(s) any of his juniors - general candidate has been promoted as Semi Skilled Fitter and grant him all consequential benefits in respect of his pay and allowances on the higher post, within three months from the date of receipt of this order.

6. The O.A. is disposed of, as above, with no order as to costs.


(B.S. HEGDE)
MEMBER (J)


(N.V. KRISHNAN)
VICE-CHAIRMAN (A)

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