

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.1229/2020
Tuesday, this the 07th day of December, 2020
Through video conferencing

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K.Bishnoi, Member (A)**

1. Sh. Vipin Mangla, Aged about 52 yrs,
S/o Sh. B.L.Gupta, R/o C-5A/99, Janakpuri,
New Delhi-110 058.
(Working as General Manager in NHAI, Group A)
2. Sh. Kushal Veer Singh, Aged about 56 yrs,
S/o late Aidal Singh, R/o C-O/2, J,Welcome Group,
CGHS, Plot No.6, Sector-3, Dwarka, New Delhi-78.
(Working as General Manager in NHAI, Group A)
3. Dr.A.K.Sharma, Aged about 56 yrs,
S/o Dr. late Y.P.Sharma, R/o H.No.B-41, M.K.Apartments,
Plot No.8B, Sector-11, Dwarka, New Delhi-75.
(Working as General Manager in NHAI, Group A)
4. Col.A.K.Janbaz, Aged about 51 yrs,
S/o Lt. Col. H.K.Janbaz (Retd.), R/o 44/1A1,
First Main, Kuvempu Road, Indira Nagar,
Sathiyamangla, Layout Hassan,
(Working as General Manager in NHAI, Group A)
5. Sh. Sunil Jindal, Aged about 51 yrs,
S/o Sh. Ram Niwas Jindal, R/o 104,
Vaishno Manohar Apartment,
Aligarh (UP),
(Working as General Manager in NHAI, Group A)
6. Sh. Narsingh Narayan Giri, Aged about 56 yrs,
S/o late Banshi Giri, R/o B-1/201, Eideco Elgance,
Vibhuti Khnad, Gomti Nagar, Lucknow.,
(Working as General Manager in NHAI, Group A)

.. Applicant
(Through Advocate :Mr. S.K.Gupta,)

Versus

Union of India through

1. Secretary, M/o Road, Transport & Highways,
1, Parliament Street, New Delhi-110 001.
2. National Highways Authority of India,
Through its Chairman, G-5&6, Sector-10,
Dwarka, New Delhi.

... Respondents

(Through Advocates: Mr.Ashok Sharma for Respondent No.1 and
Mr.Naresh Kaushik for Respondent No.2)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicants were initially appointed in various departments/organizations as General Manager (Technical) between the years 2013 and 2015. In the year 2018, they came on deputation to the National Highways Authority of India (NHAI), Respondent No.2 herein, in the post of General Manager (Tech) and were permanently absorbed NHAI in June/July 2018.

2. The respondents issued a notification in January 2020 for appointment by promotion, to the post of Chief General Manager (Tech). The feeder category is the General Manager (Tech). The last date for submission of applications was 20.02.2020. The consideration is confined to the General Managers, who were working on regular basis in the NHAI, with 03 years of experience in that post. The applicants responded to the

notification. However, their cases were not considered. On a representation submitted by the applicants, the respondents replied, vide office memorandum dated 24.04.2020, communicated through OM dated 24.08.2020, stating that the regular service in relation to a grade in respect of direct recruitment/promotee in NHAI, shall be counted from the date he/she joins the post on substantive basis, based on the recommendations of the DPC/Selection Committee/Search-cum-Selection Committee, and in view of the fact the applicants were absorbed only in 2018, they were not treated as eligible.

3. This OA is filed challenging the office memorandum dated 24.08.2020 and praying to set aside the same.

4. The applicants contend that once they are absorbed in NHAI, the services rendered by them on deputation basis also needs to be taken into account. They place reliance upon the judgment of this Tribunal In OA.No.3696/2014 and OA.No.3762/2014, dated 11.11.2014, and the judgment of the Hon'ble High Court of Delhi in WP (C) No.9227/2014 & WP © No.4/2015, dated 05.04.2016. It is also stated that the respondents themselves have issued a circular dated 22.05.2017, directing that the service rendered on deputation shall also be taken into account, for the purpose of determining the eligibility; and contrary to that, the impugned order is issued.

5. The respondents filed a detailed reply. According to them, the Recruitment Rules mention about the regular service and that can be only from the date on which the applicants were absorbed in the service of NHAI. The reference is also made to the office memorandum dated 24.08.2020, and instructions issued by the DOP&T , vide OM dated 22.10.2019, in this behalf.

6. We heard Mr.S.K.Gupta, learned counsel for the Applicants, and Mr.Ashok Sharma, learned counsel for the Respondent No.1 and Mr.Naresh Kaushik, learned counsel for the Respondent No.2.

7. The only issue in this OA is about the eligibility of the applicants to be considered for promotion to the post of Chief General Manager (Tech). The Recruitment Rules for the post stipulate that the General Manager, who is in the feeder category, must have 3 years of standing in that post. It is important to note that the applicants came on deputation to NHAI in the year 2015 in the post of General Manager (Tech) and were absorbed in June/July 2018. Till they were absorbed, they cannot be treated as being on regular service of NHAI. However, once they are absorbed and became members of the cadre in the NHAI, the service rendered by them on deputation basis in the same organization needs to be counted for the purpose of determining the eligibility or standing for promotion.

8. This very issue was examined by this Tribunal in OA.Nos.3696/2014 and 3762/2014. In the order dated 11.11.2014, it was held that the service rendered by the officers in NHAI on deputation basis also must be counted, in the context of determining the eligibility for promotion to the next higher post.

9. It is not the case of the respondents that the Recruitment Rules are amended or that the orders passed by this Tribunal and Hon'ble High Court has been set aside in subsequent adjudications.

10. We, therefore, allow the OA and set aside the impugned order dated 24.08.2020. The respondents shall reckon the service of the applicants in the post of General Manager (Tech), rendered on deputation basis also, to decide their eligibility to be considered for promotion to the post of Chief General Manager (Tech). There shall be no order as to costs.

(A K Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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