

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/00287/2020

HYDERABAD, this the 20th day of January, 2021



**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**

D.Chinna Rao S/o late D.Musalayya,
Aged 59 years, Assistant Naval Store Officer-II
(Assistant Controller (Admn.)),
Junior Time Scale Group B Gazetted Cadre,
O/o Material Organisation,
Visakhapatnam – 530004.

...Applicant

(By Advocate : Mr. P. Venkata Rama Sarma)

Vs.

1. The Union of India, rep by its Secretary,
Ministry of Defence, Integrated Headquarters,
Sena Bhavan, New Delhi.
2. The Chief of Naval Staff, Integrated Naval Headquarters,
Sena Bhavan, New Delhi.
3. The Flag Officer Commanding-in-Chief,
Eastern Naval Command, Headquarters,
Naval Base, Visakhapatnam.
4. The Material Superintendent, Material Organisation,
Visakhapatnam.

....Respondents

(By Advocate : Mr. A. Vijaya Bhaskar Babu, Addl. CGSC)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA is filed in regard to the promotion of the applicant as ANSO– Grade I (Asst. Naval Stores officer).
3. Brief facts of the case are that the applicant, who was appointed as LDC in the respondents organization rose up to the level of Assistant Naval Stores Officer Grade-II by 2.11.2016 in Grade Pay of Rs.4600 and the next promotion is that of Assistant Naval Stores Officer Grade –I with grade pay of Rs.5400. Applicant claims that there were 15 vacancies in ANSO Grade - I under departmental quota and that only 5 vacancies were filled up. DPC proposal was mooted for the year 2019-20 and the applicant was at serial 9 among the 13 eligible. However, applicant had to retire in June 2020 without being promoted since respondents failed to conduct DPC in time. Hence, the OA.
4. The contentions of the applicant are that respondents did not initiate appropriate action to conduct DPC before the occurrence of the vacancy. Respondents have not filled up the vacancies in the departmental quota. DOPT circulars in regard to conduct of DPC were not followed. The applicant has no black mark in his career and though eligible, he was not promoted causing financial loss and he was made to lose an opportunity to work in a higher post. Articles 14 & 21 of the Constitution were violated.

5. Respondents in the reply statement state that as per SRO-32/2009, to be promoted as ANSO-I, 3 years service in ANSO Grade-II is required. Applicant did not complete 3 years by 1st January, 2019 and hence was not considered. Applicant was eligible to be considered in 2020 but there were no promotion quota vacancies available in the said cadre to consider the applicant for promotion. Applicant retired in June 2020. The vacancies are arrived on annual basis and not on the number of posts sanctioned. The vacancies indicated by the applicant are on a casual basis. There was delay in conduct of DPC due to issue of reservation in promotion pending adjudication by the Hon'ble Supreme Court.

6. Heard both the counsel and perused the pleadings on record.

7. I. The dispute is in regard to promotion of the applicant as ANSO – Grade I. Applicant was promoted to the grade of ANSO – Grade II on 2.11.2016. As per SRO-32, applicant should have rendered 3 years of regular service in the grade of ANSO Grade –II to be promoted to ANSO Grade –I. As per DOPT memo dated 8.5.2017 the crucial date for grant of promotions is Jan. 1st of the year. There were 42 employees working in the ANSO grade –II and only 3 rendered the requisite service for being considered for promotion on 1.1.2019. As on 1.1.2019 there were 2 vacancies in the promotional quota and since the applicant had less than 3 years of service as on 1.1.2019, he could not be considered.



II. The applicant claiming that there were 80 posts in the ANSO Grade-I and therefore, 25% of which i.e. 20 posts belong to promotional quota. 5 posts were filled and therefore, there were only 15 vacancies in the ANSO Grade- I cadre to be filled up is incorrect. However, vacancies are to be worked year-wise and filled up. Out of the total vacancies, 75% of the vacancies are allotted to DR and 25 % to promotional quota as per SRO – 32, which was later revised to 67% & 33% as per SRO 10. The applicant has enclosed the letters dated 26.12.19 & 27.12.2109 issued by the respondents consisting of the names in the panel for the years 2015-16, 2016-17, 2017-18 & 2018-19. The number of vacancies given by the respondents year wise from 2015-16 onwards till 2019-20 is 5, 3, 2, 6 and 2 respectively. The applicant as per recruitment rules was eligible in 2020 and therefore, processing of promotions for the previous years will be of no consequence to the case of the applicant. Further, vacancies are to be arrived year wise as per DOPT memo dated 19.1.2007. The applicant was in the zone of consideration at S1.12 as on 1.1.2019. Even assuming that S1. 1 &2 were promoted considering their eligibility and S1. 3 &4 were due to retire, even then the applicant will figure as S1.8 and therefore, the question of promoting the applicant in 2019 would not arise even otherwise.

III. It is a fact that the issue of reservation of promotion is being adjudicated by the Hon'ble Apex Court and that there was some delay in conducting the DPC which was beyond the control of the respondents. Respondents on being permitted to conduct DPC subject to outcome of SLP 30621/2011 they have initiated the process of conduct of DPC from Dec 2109 onwards. Therefore, the respondents cannot be found fault with for

the delay in conduct of the DPCs. Moreover, for the years for which the DPC was delayed applicant was not in the reckoning for promotion as per recruitment rules and hence, any delay in conduct of the DPC for the previous years is of no consequence in respect of the promotion of the applicant in 2020. Applicant was also informed by the respondents vide their letter dated on 16.3.2020 that his name figures at S1.12 in the zone of consideration and that he is ineligible for promotion as on 1.1.2019. There were no vacancies in 2020 in the departmental promotion quota for the applicant to be considered. The applicant has not produced any document to prove that there were vacancies available when he was found eligible and yet the respondents did not consider to promote him. Applicant retired in June 2020 and he has also not contended that any of his junior was promoted before he retired.

IV. In view of the above, viewed from any angle we do not find any merit in the OA and hence deserves to be dismissed. Accordingly, dismissed with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

evr