

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.812/86

DATE OF DECISION: 12.12.1991

SHRI SRI PAL BHARTI

APPLICANT

VERSUS

UNION OF INDIA & ORS.

RESPONDENTS

CORAM:

THE HON'BLE MR. JUSTICE RAM PAL SINGH, VICE CHAIRMAN(J)

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

FOR THE APPLICANT

SHRI ASHISH KALIA, COUNSEL

FOR THE RESPONDENTS

SH. JAGJIT SINGH, COUNSEL

(JUDGEMENT OF THE BENCH DELIVERED BY

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

Shri Sri Pal Bharti, the applicant aggrieved by order No. PEL/759E-1/HSF.I&II(TL) dt. 16.7.1986; PEL/852E-15/5/Elect/11/86 dated 2.9.1986 and GM(P)'s letter No. 561-E/AC/283-1/F-1 dated 18.1.1978 has filed this application under Section 19 of the Administrative Tribunals Act, 1985. The brief facts of the case are that the applicant was called for trade test for the post of A.C. Mechanic, Rs. 330-480 in 1980 when he was working as A.C. Fitter in the grade of Rs. 260-400. The trade test was held against a clear vacancy and the applicant was declared successful vide respondents' letter dated 25.9.1980. He was, however, not promoted. Instead, Shri Jarnail Singh, who was working at another station was promoted against the post in 1980 whereas the applicant was promoted only on 28.10.1985 vide letter dated 18.10.1985. He is further aggrieved by the fact that another junior person Shri Chander Bhan, A.C. Fitter was promoted in the pay scale of Rs. 330-480/- as ACC-I in accordance with the revised channel of promotion circulated under GM(P)'s letter dated 18.1.1978. The applicant represented against his supersession but did not receive any response. Later another person Shri Ram Niwas, who was working on the AC side as ACC-I was called for Trade Test for promotion to the next higher grade of

Rs. 380-560. He, however, failed to make the grade as is seen from respondent's letter dated 12.3.1986.

By way of relief the applicant prays that:

- (a) He be assigned seniority above Shri Jarnail Singh, at S.No.3 of respondents' letter dated 16.7.1986;
- (b) Be promoted to Highly Skilled Grade of Rs. 380-560/- for which Shri Ram Niwas was considered.
- (c) The result of the trade test of Shri Ram Niwas be stayed.

2. The respondents in their counter affidavit have explained that Shri Jarnail Singh, who is alleged to have been promoted against the vacancy for which the applicant was trade-tested in 1980 was promoted against a reserved vacancy as he belonged to Scheduled Caste Community and therefore the applicant can have no grievance on that score. Further ~~the~~ the letter dated 16.7.1986 is not the seniority list but is the promotion order issued as a result of restructuring of the cadre effective from 1.4.1983 and 1.1.1984. The applicant could have been considered for promotion w.e.f. 1.4.1983 but this could not be done as he was under suspension and punishment upto 31.8.1985. In these circumstances, his next junior Shri Chander Bhan, who had qualified in the trade-test was promoted. The respondents deny having received any representation from the applicant as enclosed at Annexure A-3 to the application. Besides, as the letter dated 16.7.1986 was a promotion order and not a seniority list, the said representation, even if it was sent and received did not call for any reply. Again Shri Ram Niwas, is senior to the applicant and accordingly he has been promoted as Highly Skilled Grade-I Ref. Mechanic (Rs. 380-560) vide order dated 17.11.1986. The respondents have also submitted the seniority list issued on 19.9.1979 of the Ref. mechanics in Highly Skilled Grade-I (Rs. 380-560) Highly Skilled Grade-II (Rs. 330-480) and skilled Grade (Rs. 260-400). While Shri Ram Niwas figures at S.No. 6 of the seniority list for Skilled


el


Grade (Rs. 260-400), the name of the applicant is at S.No.9.

3. The applicant has filed a rejoinder and reaffirms the averments made in the original application.

4. We have heard the learned counsel for the applicant, Shri Ashish Kalia, and learned counsel for the respondents Shri Jagjit Singh. We find that the reliefs prayed for by the applicant cannot be granted to him as Shri Jarnail Singh was promoted in the reserved vacancy being a scheduled caste candidate in 1981. The applicant, being a general category candidate, cannot make any claim against that vacancy. Again Shri Ram Niwas is senior to him as is apparent from the seniority list dated 19.9.1979. He has since been promoted to the grade of Rs. 330-560/-. Shri Chander Bhan his next junior was promoted to the grade of Rs. 330-480/- as the applicant was undergoing punishment at the relevant time.

In the facts and circumstances of the case, we do not find any merit in the application and accordingly the same is dismissed. There will be no orders as to the costs.

  
(I.K. Rasgotra)  
Member(A) 17/12/91

  
(Ram Pal Singh) 16.12.91  
Vice Chairman(J)