

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI:

O.A. 935/1990

New Delhi, this the 26th day of September, 1994

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri B.K. Singh, Member (A)

Shri Vijay Kumar Saxena,
s/o Shri T.S. Saxena,
O/O Delhi Milk Scheme,
Patel Nagar, Delhi.

..... Applicant

By Shri V.P. Sharma, Advocate

Vs.

1. Union of India
through the
Secretary,
Ministry of Agriculture & Irrigation,
Govt. of India,
Krishi Bhawan,
New Delhi.
2. The Under Secretary,
Department of Personnel & Training,
Govt. of India,
New Delhi.
3. The General Manager,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi.

By Shri Madhav Panikar, Advocate

..... Respondents

ORDER (ORAL)

Hon'ble Shri J.P. Sharma, Member (J)

The applicant was appointed as Semi-Skilled Fitter (S.S.F.) in Delhi Milk Scheme in May, 1975. His contention is that since he had qualification of that of a Mechanic (Refrigeration) he was made to work on that post, he discharged the functions, responsibilities and duties of that post, but was paid the salary of S.S.F. He made representations but of no effect

and thereafter he filed the application in May, 1990 praying for the grant of the reliefs that the respondents be directed to consider the applicant for the post of Mechanic(Refrigeration) and further to pay the applicant salary of the post of Mechanic on which the applicant has since been functioning from the date of his initial appointment.

2. The Respondents in their reply stated that the applicant was appointed as S.S.F. and is discharging the work of post and has been paid the salary of the post. He is too junior to be considered for the post of Mechanic. He was appointed as S.S.F. in July, 1976 and not on 13.5.76 in the pay scale of Rs.210-290. He is now performing the duties of Mechanic. The applicant has no case.

3. The Applicant has not filed any rejoinder to the above reply.

4. Heard Shri V.P. Sharma, counsel for the applicant and Shri Madhav Panikar, Counsel for the Respondents.

5. The counsel for the Respondents has during the course of the hearing given a copy of the Order No.95/1990 dated 15.3.90 which goes to show that the applicant as S.S.F.(Refrigeration) has been promoted as Fitter in the pay scale of Rs.950-1500. He has also filed a photocopy of the Recruitment Rules for the post of Mechanic which goes to show that it is a promotional post from the Feeder post of Fitter with 5 years service in the grade. The

learned counsel for the applicant could not show as to how the applicant who was appointed to the post of S.S.F. can get promotion to the post of Mechanic without getting the Feeder post of Fitter (Refrigeration). The applicant has been promoted to the post of Fitter by the order dated 15.3.90 and he would be eligible only 5 years thereafter. Merely because the applicant has certain educational/technical qualifications required for the post of Mechanic(Refrigeration) cannot automatically make the applicant eligible for the post of Mechanic (Refrigeration). Thus, the applicant cannot be granted this relief.

6. Regarding the grant of the pay for the post of Mechanic to which the applicant has alleged to be working since his initial appointment, we have gone through the records of the case. Though at one or two places the applicant has been shown as Mechanic (Refrigeration) but he has also been shown as S.S.F. i.e. Semi-Skilled Fitter. In the representation made by the applicant in May, 1988 he has also shown himself as S.S.F., Delhi Milk Scheme. He has written that he has been attending to the duties attached to the post of Mechanic. Taking all these facts into account, we do not find that the applicant was not actually discharging the duties assigned to the post of Mechanic. In the seniority list there are persons senior to him and he is at S.No.7. It may be that in the exigency of the service, he may have been

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utilised because of his qualifications at one time or the other to do the job which normally is done by the Mechanic(Refrigeration). That by itself will not make the applicant entitled to the pay of the post of Mechanic(Refrigeration).

7. We do not find any merit in this application and the same is dismissed leaving the parties to bear their cost.


(B.N. SINGH)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J)

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