

New Delhi this the 26th Day of ~~August~~ ^{April} 1995

(4)

Hon'ble Mr. A.V. Haridasan, Vice Chairman (J)

Hon'ble Mr. K. Muthukumar, Member A)

Shri O.P. Bhai,
Engineer (I) Licence,
Aviation Research Centre,
Air Wing, Charbatia,
Orissa.

... Applicant

(By Advocate: None)

Vs.

Union of India

Through

1. Cabinet Secretary,
Department of Cabinet Affairs,
Room No. 121, South Block,
New Delhi.
2. Principal Director,
Directorate General of Security,
Cabinet Secretariat,
East Block, R.K. Puram,
New Delhi-110 066.
3. Deputy Director (Admn.),
Aviation Research Centre,
Charbatia, Cuttack-754 028. ... Respondents

(By Advocate: None)

O R D E R (Oral)

Hon'ble Mr. A.V. Haridasan, Vice Chairman (J)


As this is an old case, and since both the counsel on either side are absent, we are proceeding to dispose of the case on merit after perusing the materials on record.

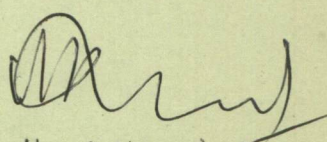
2. The applicant who has been working as Engineer (I) Licence in the Aviation Research Centre, AVRI, Cuttack, Orissa since 1976 has filed this application being aggrieved by the fact that though there is one post of Electrical Officer and though he was the only departmental candidate qualified in all respects to be promoted to that post, the respondents have not considered his

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case for promotion. The applicant has filed this present O.A. praying that the respondents may be directed to consider the applicant for promotion to the post of Electrical Officer with effect from 1.9.1988, the date on which the vacancy arose with all consequential benefits. The post of Electrical Officer according to the Recruitment Rules is to be filled by 1) Deputation; 2) Direct recruitment; 3) Re-employment and 4) by Promotion. The requisite qualification for promotion according to Recruitment Rules by promotion is ten years experience as Engineer(I) and a pass in the departmental examination. The applicant admittedly satisfied the eligibility criteria; but the case of the respondents is that the Departmental Promotion Committee which met for considering the case of the applicant for promotion on 29.11.1989 did not find him suitable for promotion as he did not get the bench mark required for promotion. They have contended that as the department needs a highly qualified Electrical Officer who has got experience on Camera and background and aerial photography, they are considering making the appointment through the various methods of recruitments provided in the Recruitment Rules. They have further indicated that in case the applicant is found suitable by the Departmental Promotion Committee which would meet shortly he would be considered for promotion. However, the respondents contend that the applicant has no legitimate grievance in the application. On a careful examination of materials on records we are convinced that the applicant does not have any undefeasible right to be promoted. He has only a right to be considered for promotion, as and when the department takes steps for filling the vacancy. The applicant was

duly considered by the Departmental Promotion Committee on 29.11.1989 but was found not suitable as he does not get the bench mark. No allegation of malafides has been levelled against the D.P.C. As the non promotion to the applicant to the post of Electrical Officer with effect from 29.11.1989 was only because the D.P.C. found him not suitable for the post, we are of the considered view that the applicant is not entitled for direction to the respondents to promote him with retrospective effect as prayed for by him. It is understood that the applicant had retired on superannuation in the year 1992. Therefore considering the totality of the facts and circumstances, we are of the view that the application is devoid of merit. In the result the application is dismissed leaving the parties to bear their own costs.


(K. Muthukumar)
Member(A)


(A.V. Haridasan)
Vice Chairman(J)

Mittal