

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 2147 of 1991

New Delhi this the 4th day of September, 1995.

HON'BLE SHRI N. V. KRISHNAN, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri H. A. Khan,
S/O Shri Mangal Khan,
R/O WZ-1097, Nangal Raya,
New Delhi - 110046.

... Applicant

(None present)

-Versus-

1. Union of India through
Directorate of A.S.C.,
Army Headquarters,
DHQ PO, New Delhi-11.
2. Officer-in-Charge,
Army Supply Corps. Records
(Supply),
Bangalore-560007.
3. Officer Commanding,
4, Reserve Petroleum Depot ASC,
Delhi Cantt.-110010. ... Respondents

(None present)

O R D E R (ORAL)

Hon'ble Shri N. V. Krishnan, V.C.(A) :-

The applicant who retired from service on 1.6.1988 has filed this application impugning the Annexure A-1 order dated 24.9.1990.

2. After his retirement, the applicant came to know in September, 1990 that Highly Skilled Grade-I employees of the department had been given retrospective promotions. He, therefore, submitted a representation on 10.9.1990 to the third respondent through his former head of office. The latter forwarded his representation on the same date to the A.S.C. Records (Sup.), i.e., the second respondent,

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for taking necessary action. In the forwarding letter, it was mentioned that the contents of the representation were correct and particularly that the applicant had passed the technical trade test Grade-I from A.S.C. Centre (South), Bangalore and a junior in enrolment to the applicant had been promoted.

3. It is ^{to} ~~is~~ this Annexure A-3 letter dated 10.9.1990 of the third respondent that the impugned Annexure A-1 letter dated 24.9.1990 has been addressed by the second respondent. That letter reads as follows :-

***PROMOTION FROM HIGHLY SKILLED
GRADE II TO HIGHLY SKILLED GOE I**

1. Refer to your letter No.1430/Civ/
ST 12 dated 10 Sep 1990.

2. No. 6523062 Ex-Painter H.A.Khan was initially appointed as Chowkidar wef 25 May 1949 and reclassified as Painter wef 1 Jan 1963, further he has been transferred to your unit wef 9 Mar 1972 and made permanent (confirmation) in the trade of Painter wef 1 April 1973 i.e. from the date of available permanent post held by you. Accordingly, seniority has been fixed wef 01 April 1973 in the revised seniority roll as per date of confirmation (permanency). As such he cannot claim his seniority from the date of his appointment. Therefore, your contention as mentioned in para 2 of your letter under reference that juniors to the above named individual has been promoted to highly skilled grade is not agreed to.

3. As regard grant of highly skilled grade I to the above named individual, he could not come up in the zone of consideration for such post as vacancies were limited. Upgradation to the highly skilled grade I is granted strictly as per seniority upto the extent of vacancies allotted by the Govt and not merely on passing of technical trade test. Moreover posts created by the Govt were very few. You may therefore, inform him of the position of his case accordingly."

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4. In the reply to the D.A., the respondents only add that initially the applicant was confirmed only on 1.8.1976. However, as directed by the Army Headquarters, the dates of confirmation were reviewed and the applicant was confirmed from 1.4.1973. It is also averred that as per existing orders, seniority of civilian personnel is fixed from the date of confirmation. The applicant has filed rejoinder in which he states that there was no seniority rules which provide for seniority to the applicant from 1.4.1973..

5. It is clear from the impugned letter that the applicant was confirmed as a Painter only from 1.4.1973 and hence, his seniority is counted from that date. He, therefore, cannot claim seniority from the date of his appointment. It is further stated that the applicant could not come up in the zone of consideration because of his low seniority and the limited number of vacancies available.

6. In the reply, it is stated that the only juniors promoted before the applicant are - one SC and one ST but this was due to the reservation policy. No general candidate junior to the applicant has been promoted.

7. The applicant has not produced any rules or instructions to show that seniority is to be determined otherwise than by the date of confirmation. The reply further adds that there are two general candidates senior to the applicant who are still awaiting promotion and to this, the applicant's only reply is that he was also senior enough for

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promotion. This, however, does not mean that the applicant was the seniormost person due for promotion.

8. For the aforesaid reason, we find no merit in the O.A. Accordingly, it is dismissed. No costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)

N. V. Krishnan
(N. V. Krishnan)
Vice-Chairman(A)

/as/