

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

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O.A. NO. 2724/91

Hon'ble Mrs. Lakshmi Swaminathan, Member(J)
Hon'ble Shri R.K. Ahooja, Member(A)

New Delhi, this 11th day of October, 1996

Shri Kishore Singh Daria
s/o Shri Sardana Ram Daria
working as Mechanic, in News
Services Division,
All India Radio
New Delhi
r/o H.No.444, Village/P.O.
Kapashera
NEW DELHI - 1.

... Applicant

(By Shri T.C. Aggarwal, Advocate)

Vs.

Union of India, through

Director General
News Services Division
All India Radio
Parliament Street
NEW DELHI.

... Respondent

(By Shri B. Lal, Advocate)

O R D E R

Hon'ble Shri R.K. Ahooja, Member(A)

The applicant an Ex-serviceman joined as a Motor Driver in the office of respondent with effect from 30.05.1988. ^{Upon} a regular vacancy of Motor Mechanic arising in the office of respondent, ~~he~~ was promoted to the post of Motor Mechanic on adhoc basis with effect from 14.3.1991 as per order A4. The post of the Mechanic is to be filled 100% by promotion from amongst those with five years service as Motor Driver. Failing which, as per Recruitment Rules at Annexure A5,

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the post is to be filled by direct recruitment. The applicant is aggrieved that though he had 19 years service in the Army as a Motor Driver and was thus eligible for promotion as Motor Mechanic, and further^{more}, though he had been properly selected and appointed to the post of Motor Mechanic, the respondent, in order to favour^{some one}, illegally decided to fill the post by the alternative method of direct recruitment.

2. The respondent has denied the above allegation and submits that the applicant does not have the requisite five years of service as Motor Mechanic having been appointed as Motor Driver with the respondent only in 1988, nor he is the senior most. The promotion to the post of Mechanic is to be made on the basis of seniority-cum-fitness from amongst Motor Drivers, who have five years service in that capacity. The respondent thus claims that the applicant is not eligible for promotion as Motor Mechanic, as he is not ^{the} senior most nor does he has ^{the} requisite experience.

3. We have heard the learned counsel on both sides. Shri T.C. Aggarwal, learned counsel for the applicant argued that the question of seniority had been decided since all those Motor Drivers who were senior to the applicant had

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given in writing that they had no objection to applicant being promoted as Motor Mechanic. It was in fact on the basis of this relinquishment of their claims that the applicant had been promoted as Motor Mechanic on adhoc basis. As regards the question of experience, Shri T.C. Aggarwal, learned counsel for the applicant pointed out that the applicant had undoubtedly 19 years service as Motor Driver in the Army, where he got appreciation for his competence and good work. It was argued that in any case, the applicant had now been working as Motor Mechanic since 1991, on the basis of the Interim orders of this Tribunal.

4. The learned counsel for the respondent points out that as stated by the respondent in Para 4.8 and 4.10 of his reply, the respondent is willing to convene the meeting of the Departmental Promotion Committee (DPC) in accordance with the rules and regulations issued by the Department of Personnel & Training.

5. It is clear from the pleadings that the applicant is not the senior most Motor Driver. While admittedly most of his seniors have been given their consent that the applicant may be promoted, this consent is as per #3 only in respect of promotion on 'adhoc basis'. Those who are willing to forego promotion on adhoc basis might not be agreeable to forego promotion when offered on a regular basis.

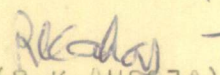
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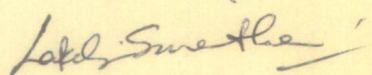
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Hence, #3 cannot be regarded as conclusive evidence that all the seniors of the applicant are willing to forego promotion as Motor Mechanic. For this reason and in the facts and circumstances of the case, the proper course would be ^{for} ~~that~~ the respondent to convene the Departmental Promotion Committee and to consider the case of the applicant as well as of the others who are eligible and to take a decision on the basis of the Recruitment Rules. Considering his service in Army as a Motor Driver, the applicant would be deemed to possess the qualifying experience.

5. The application is accordingly disposed of with the direction that the respondent would convene a meeting of the Departmental Promotion Committee ^{the date of receipt of a copy of this order} within three months from ~~to~~ / and will also consider the case of the applicant along with others and take a decision for regular appointment. There shall be no order as to costs.


(R.K. AHUJA)
MEMBER(A)


(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)

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