

Central Administrative Tribunal
Principal Bench, New Delhi.

(13)

O.A.No.273/91

New Delhi this the 20th Day of July, 1995.

Hon'ble Sh. J.P. Sharma, Member(J)
Hon'ble Sh. B.K. Singh, Member(A).

1. Shri B.D. Sharma,
Foreman(Non-Technical),
Government of India,
Ministry of Defence,
Ordnance Factory, Muradnagar,
District, Ghaziabad(UP).
Applicants
2. Sh. Prem Kumar,
Foreman (Non-Technical),
Government of India,
Ministry of Defence,
Ordnance Factory, Muradnagar,
District, Ghaziabad(UP).
(through Sh. D.R. Gupta, advocate)

versus

1. Union of India,
through the Secretary,
Government of India,
Ministry of Defence,
Sena Bhawan, New Delhi.
2. The Chairman,
Ordnance Factory Board,
Government of India,
Ministry of Defence,
Ordnance Factory Board,
Auckland Road,
Calcutta-700001.
Respondents

(through Sh. V.S.R. Krishna, advocate)

ORDER(ORAL)

delivered by Hon'ble Sh. J.P. Sharma, Member(J)

The applicants are Foreman (Non-Technical) in Ordnance Factory, Muradnagar controlled by Ordnance Factory Board, Ministry of Defence. The grievance of the applicants is that they have been denied the higher promotion to the posts of Assistant Works Manager/Administrative Officer in the Junior Time Scale (Non-Technical) in the pay scale of Rs.2200-4000/-. Both

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the applicants joined as Supervisor in the year 1967 and in due course of time with effect from 1.8.1980 were promoted to the posts of Foreman (Non-Technical) in the scale of Rs.2000-3200/-.

The relief prayed by the applicants is that the respondents be directed to consider their claim for promotion to the posts of Assistant Works Manager/Administrative Officer (Non-Technical) in the Junior Time Scale and the review D.P.C. be convened.

On notice the respondents filed their reply and stated that the recruitment to the service is governed by the Indian Ordnance Factories Service Group-A, Recruitment Rules, 1972. In these recruitment rules there is no trade-wise allocation of posts in I.O.F.S. Ordnance Factories are multi products, multi discipline organisation and the requirement of officers in various disciplines keeps on changing from time to time depending upon the functional requirements. In the recruitment rules, in sub-rule (h) of Rule 2 'Service' has been defined which consts of the post or grades or time-scales mentioned in Appendix-I annexed to the rules and comprises of the following categories of officers, namely:-

- i) Engineers (Mechanical/Electrical)
- ii) Chemists
- iii) Metallurgists
- iv) Leather Technologists
- v) Clothing Technicians
- vi) Administrative Officers (Non-Technical)

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vii) Designers

viii) Psychologists

ix) Physicist

However, the Government can at any time include in appendix-I any of the posts. The percentage of vacancies to be filled up by various methods of recruitment is defined in Rule-4 and 60% of the vacancies for the Junior Time Scale shall be filled by competitive examination from among the Engineers and Administrative Officers (Non-Technical) and by selection from the remaining categories as specified in rules 31 and 32 of Part-IV and Rule 38 of Part V. The remaining 40% of the vacancies shall be filled by promotions, transfer or deputation. In making promotions due care will be taken to ensure that within the overall percentage prescribed for promotion adequate promotions are made to each of the categories specified in clause (h) of rule 2. The main emphasis in this case appears to be filling up 40% of the vacancies by promotion, transfer or deputation. Appendix-I of the rules lays down that the number of posts at the time were 355 in Junior Time Scale. This position was in the year 1972. The respondents stand in that for certain reasons the D.P.C. could not be held for the years 1986, 1987 and 1988. The next D.P.C. was held in 1989 and as per prescribed rules of 1972, the vacancies were earmarked by direct recruitment and promotion in various disciplines in Junior Time Scale. It is, therefore, prayed that the application in which certain facts have not been specifically mentioned about the latest amendments does not make out a case for promotion of the applicants.

The applicants have also filed rejoinder reiterating the same facts as stated in the O.A. In the rejoinder, the latest seniority list as on 1.1.1994 has also been filed in the supplementary rejoinder. The name of applicant No.1 appears at S1. No.3 and the name of applicant No.2 is not shown in this list as he has already been promoted as Assistant Works Manager in 1994 during the pendency of this application. The relief prayed for with respect to applicant No.2, therefore, becomes infructuous as he has already been promoted and given the Junior Time Scale.

Heard the learned counsel for the parties and perused the record.

On an overall analysis of the factual position, it transpires that the respondents are filling vacancies as per the chart given by the applicant at page-6 of the application and with M.P.No.3132/91. The said chart is reproduced below:-

DIRECT RECRUITMENT

	1986	1987	1988	1989	1990 upto July
Engineering	64	42	46	85	24
Chemist	08	01	-	12	01
Metallurgist	14	-	03	14	-
Leather Technician	-	-	-	-	-
Clothing Technician	-	02	-	05	-
Non-Technical	12	11	14	18	14
Physicist	02	-	-	03	-
Total	100	56	63	137	39

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PROMOTION

Engineering	-	-	-	102	92
Chemist	-	-	-	03	-
Metallurgist	-	-	-	25	17
Leather Technician	-	-	-	02	-
Clothing Technician	-	-	-	-	-
Non-Technical	-	-	-	-	02
Physicist	-	-	-	-	01
Total	-	-	-	132	112

The learned counsel argued that the various promotions in the years 1986-1990 in the promotion quota have not been affected and there has been short fall to the extent of 42 and the relevant statistics has been given in para 4.12 of the O.A. The respondents have not categorically denied the statistics furnished by the applicants in the O.A. The reply given by the respondents in their counter is only that the D.P.Cs which were held in the years 1989 and 1990 have been done strictly in accordance with the rules in consultation with U.P.S.C. It is also stated that certain foreman of D.G.I. were also transferred to Ordnance Factory which also resulted in delay of the holding of the D.P.C.

The contention of the applicant's counsel is that ratio of 60:40 is not maintained so far as non technical posts in Junior Time Scale is concerned. The eligibility condition is only 3 years but the applicant is working on that post since August, 1980 and already more than 14 years have passed. The contention of respondents' counsel is that the promotions are effected as per job requirement in the administrative wing for

appointment as Assistant/Administrative Officer(Non-Technical). However, we do find that strict adherence to the quota for promotion in various disciplines has not been maintained which is clear breach of the direction given in rule-4 of the 1972 rules. This rule specifically lays down that adequate representation should be given to all those mentioned in sub-clause (h) of rule-2. This safeguard in the rule is provided to promote those who had put in longer length of service in a particular discipline. The respondents may verywell consider such Foreman who are advanced in age and seniority by giving them promotion in the 40% quota and for the 60% quota filling up by way of direct recruitment other than non-technical person. This will maintain the balance and equity in various disciplines particularly to the non-technical staff aspiring for promotion.

In view of the above facts and circumstances and also during the course of hearing, it has been pointed out that the applicant No.1 is likely to get his chance of promotion in the ensuing D.P.C. We, therefore, make a direction to the respondents to ensure strict compliance of rule-4 and give adequate representation in J.T.S. scale to non-technical staff also.

It is also evident from the chart furnished by the applicant that there has been a short fall in the promotion quota and that some shortfall may be made good by the respondents during the ensuing D.P.C. by considering non-technical persons for promotion to J.T.S. scale. The application is, therefore, disposed of

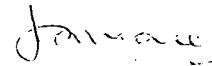
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accordingly. The respondents may fill up the vacancies already existing and likely to occur in the next one year by calling a D.P.C. within a period of six months from the date of receipt of a certified copy of this order on the basis of the observations made in the body of this order.

No costs.


(B.K. Singh)

Member (A)


(J.P. Sharma)

Member (J)

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