

65

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A.No.2186/2004

**Hon'ble Mr.L.K. Joshi, Vice Chairman(A)
Hon'ble Mr.Mukesh Kumar Gupta, Member(J)**

New Delhi, this the 21st day of March, 2007

Dhoop Singh,
Working as Asst. Store Keeper,
Delhi College of Engineering,
R/o CN-1857, Savantar Nagar,
Narela, Delhi-40

..... Applicant

(By Advocate: Shri Arun Bhardwaj)

Vs.

1. Govt. of NCT of Delhi,
Through Secretary (Services),
B-Wing, 6th Floor, I.P. Estate,
Delhi.
2. The Secretary,
Directorate of Technical Education,
Muni Maya Ram Marg,
Delhi
3. The Principal,
Delhi Engineering College,
Bawana Road,
Delhi
4. A.K. Pandey,
Asstt. Store Keeper,
DCE Bawana, Delhi-39

..... Respondents

(By Advocate: Shri Ajesh Luthra)

ORDER

Mr. L.K. Joshi, Vice Chairman (A)

The facts of the case briefly are as follows. The Applicant was appointed Assistant Store Keeper (ASK) in Government of National Capital Territory of Delhi (hereinafter GNCTD) in 1973 under the Recruitment Rules (RRs) notified *vide* No. F.5-108/58.T.1 dated 23.02.1959, under which the educational qualification for the ASK was Matriculation or equivalent with Science, which the Applicant possessed. The educational qualification for the Store Keeper (SK) also was the same. In 1974, the RRs were amended *vide*

L.K. Joshi

No. F.2 (63)/73-S.II dated 26.12.1974 in which the qualifications for both the ASK and SK were raised to Higher Secondary with science or equivalent and it was also added that the prescribed qualification would apply for direct recruitment as well as for promotion. On 6.09.2002, one Sh. A K Pandey, who was appointed ASK in 1996 and was, therefore, junior to the Applicant was promoted as SK, whereas the Applicant was not promoted. The Applicant made a representation against being superseded by his junior, which was rejected on 10.09.2003. The Applicant has impugned the order dated 10.09.2003 by which his representation was rejected and has also sought the relief that he should be promoted SK from the date the person junior to him was so promoted, i.e. from 6.09.2002.

2. The learned Counsel for the Applicant has argued that the promotion of the Applicant to the higher post should be governed by the RRs applicable at the time of his appointment, i.e. the RRs of 1959 in which the qualification for the post of SK was also matriculation and not by the amended RRs of 1974 in which the qualification had been raised to Higher Secondary. It has also been contended that one Sh. Rajender Prasad was promoted as SK after coming into force of 1974 RRs although he also had matriculation qualification, as per the 1959 RRs.

3. The learned Counsel for the Respondents has vehemently opposed this line of thinking on the ground that promotion has to be made on the basis of the RRs applicable at the time of promotion. It has been accepted that Sh. Rajender Prasad was promoted after coming into force of 1974 RRs but it has been contended that it was an inadvertent mistake, which can not justify anyone else's claim for the same treatment. In this context the learned Counsel for the Applicant has cited an order of Central Administrative Tribunal, Chandigarh Bench in O P Gupta V. Council for Scientific and Industrial Research, OA No. 367-JK of 1994, 408 Swamy's CL Digest 1995/1 in which it was held that promotion of OP Gupta, although it was given during the currency of punishment inflicted earlier, could not be set aside as a mistake. However, in our view to argue that the Applicant too should be

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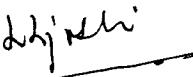
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promoted in spite of not having educational qualification as per applicable RRs because of the precedent of Sh. Rajender Prasad being similarly promoted, applying the analogy of OP Gupta case (supra) is stretching the logic a bit too far. In the OP Gupta case the Tribunal (Chandigarh) has held that his promotion can not be set aside on the ground that the DPC has recommended him for promotion in spite of being fully conversant with the fact that he has been awarded punishment for some misdemeanour, the period of which (the punishment) is still current. Facts in the instant case are different.

4. It is well established in law that promotion has to be made on the basis of the RRs in force at the time of promotion unless RRs have been amended and the promotions relate to the years when un-amended RRs were in force. In the instant case it is admitted by both the parties that the Applicant did not possess the qualification for promotion, which was prescribed under the relevant RRs applicable at the time of promotion.

5. We find no merit in the application, which is dismissed. There will be no orders as to costs.


 (Mukesh Kumar Gupta)
 Member (J)


 (L.K. Joshi)
 Vice Chairman (A)

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