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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 3035/2004

New Delhi: this the 24th day of April, 2006

HON'BLE MR.SHANKER RAJU, MEMBER(J)
HON'BLE MRS.CHITRA CHOPRA, MEMBER(A)

Shri Rishi Pal,
S/o Late Sh.Sukhbir Singh,
R/o A-2/A/85, Janakpuri,
New Delhi-110058

.....Applicant

(By Advocate: Shri M.L.Chawla)

Versus

1. Union of India through
The Secretary,
Ministry of Defence, DHQ, PO,
South Block,
New Delhi-110011
2. Director General Quality Assurance,
Ministry of Defence,
Govt. of India, South Block,
DHQ, PO,
New Delhi-110011
3. Director Quality Assurance (Armaments),
'H' Block, DHQ, PO,
New Delhi-110011.
4. The Controller,
Controllerate of Quality Assurance (AMN),
Nehru Road, Kirkee,
Pune-411 003
(By Advocate: Shri T.C.Gupta)Respondents

Chitra Chopra

29

ORDER**Hon'ble Mrs. Chitra Chopra, M(A)**

In the present OA, the applicant Shri Rishi Pal seeks his inclusion in the extended panel for the vacancy year 2001 and accordingly seeks quashing of impugned order dated 5.8.2003 (Annexure -A) for not considering him for the extended panel for the year 2001 in the year 2003.

2. The brief factual background of the case is as under:

The applicant joined service under Respondents as Chargeman Grade II on 6.10.1989. He became due for promotion in the year 2000. He was promoted in the main panel of the vacancy year 2001 issued on 27.6.2001 followed by posting order dated 6.8.2001, where under the applicant who was empanelled against Serial 27 of the said order was allotted SQAE (A), Ambajari, Nagpur (Annexure-C (Colly)).

3. As the applicant could not move out of Delhi on account of his daughter's medical condition, he had to forgo his promotion. As a result of which he was debarred for promotion for one year vide order dated 8.1.2002 (Annexure-E).

4. The applicant was again empanelled in DPC selection of 2002 and was promoted to the post of Chargeman-I against Serial No.49 and was posted at New Delhi. However, his seniority was dislocated whereas officials similarly placed and debarred for promotion till 2003 and 2005

Chitra Chopra

were allowed to retain their seniority even in the panel of 2002. The names of such officials are shown against Serial No.18, 19 and 24 (S/Shri Panna Lal, Kajal Kumar Ghosh and Smt. N.V.Lakshmi respectively) (Annexure-F (Colly)).

6. Due to introduction of intergrade ratio in technical supervisory grades and allocation of posts in various disciplines vide letter dated 24.3.2003 which were with effect from December,2001, there was increase in the vacancy position for the year 2001 and for which additional DPC was held in the year 2003. It has been contended by the applicant that when the review DPC met in 2003 for the additional vacancies relating to the year 2001, while all other persons who were debarred for one year or more for reasons of disciplinary case etc, were considered in the review DPC, the applicant was not considered for the review of his promotion along with others for the vacancy year 2001. More so when those similarly debarred were considered, they were allowed their original seniority in the seniority list. This act of the respondent in not considering the applicant against additional vacancies for the year 2001 when he was actually empanelled but could not move out under the then prevailing adverse domestic conditions whereas others who were similarly debarred were considered for the additional vacancies becoming available and for which the review DPC was convened in 2003. The applicant was, thus, placed adversely qua his similarly placed colleagues. He represented against his name being ignored

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for consideration of empanelment in 2003 panel for Charge man-I vide his representations dated 13.10.2003 and 9.7.2004 (Annexure-H (Colly) . However, his representation was rejected by the respondents. He accordingly seeks redressal of his grievance in view of denial of his rightful claim despite the fact he belongs to SC community. The main relief sought by him is as under:-

“To quash and set aside the illegal order of debarment at Ann. ‘E’ passed arbitrarily and to further direct the respondents to consider the case of applicant on par with other similarly placed persons and postpone his promotion from August 2002 to August 2001 so as to avoid miscarriage of justice in accordance with S/list at Ann. ‘G’ colly with all consequential benefits.”

7. Learned counsel for the respondents in the counter-affidavit has laid down the complete position of the instructions on the subject of holding meetings of the DPC, preparation of select list, debarment in the event of non-acceptance of promotion and holding of review D.P.C./additional D.P.C. By way of the factual position of the present case, learned counsel of the applicant has made the following submissions.

A promotion panel in the grade of Chargeman-I of Ammunition SP Subject was drawn by the D.P.C. for the vacancy year 2001 and published vide respondents’ letter dated 27.6.2001. The name of the applicant, who was at that time posted at Delhi Cantt., was included in that list and ultimately his promotion posting was ordered vide order dated 6.8.2001 against a reserved vacancy for SC (Annexure R/5).

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8. The applicant himself who vide his application dated 16.11.2001 (Annexure R/6) gave in writing that due to his unavoidable family circumstances, he was unable to move out of station and was willing to forgo his promotion to Chargeman-II in accordance with the instructions of DoP&T regarding promotion and debarment in the event of forgoing promotion. As per extant instructions, he was debarred from promotion for one year i.e. upto 2.12.2002 vide orders dated 8.1.2002 (Annexure R/7). His name was again considered by the next D.P.C. for the vacancy year 2002 as per rules and he was empanelled. He was accordingly promoted to the Grade of Chargeman-II w.e.f. 3.12.2002 from the said panel for the year 2002 immediately after his debarment period was over.

9. It has further been submitted that though the orders for introduction of Inter Grade Ratio amongst the four Technical Supervisory Grades of Foreman, Asstt. Foreman/Chargeman-I and Chargeman-II in various Defence establishments were issued on 26.12.2001 and were effective from the same date, the final orders were issued on 24.3.2003 i.e. after approval of the Ministry and the Integrated Finance for redistribution of posts. The D.P.C. for the year 2001-2002 had already been held. This involved preparation of additional D.P.C. for 2001 and review DPC for 2002 keeping in view the revised authorization of the Technical Supervisory post. Preparation of additional panels for 2001 involved shifting of the required number of individuals from the original panel of 2002 to the additional panel

Chhatrapati

16

of 2001 to the extent of additional vacancies that had become available for 2001. Therefore, the original panel of 2001 remained intact. As the name of the applicant appeared in the original panel of 2001, he was not required to be again included in the additional panel of 2001.

10. The second DPC was, in fact, an additional DPC. It was neither a review DPC nor a fresh revised panel for the year 2001 as contended by the applicant. Since his name has already appeared in the original panel of 2001, his name could not again appear in the additional panel of the same year i.e. 2002. Further, the applicant was, in fact, considered for promotion to the grade of Chargeman-I in 2001 against reserved vacancy of SC and was empanelled accordingly.

11. In para 4.6 of the counter-affidavit, it has been contended by the respondents that the applicant's seniority in the 2002 panel has in no way been dislocated vis-à-vis other similarly placed persons who were debarred for promotion till 2003 and 2005. The officials at Serial Nos. 18, 19 and 24 of 2002 panel (S/Shri Panna Lal, Kajal Ghosh and N.V. Lakshmi) all are senior to the applicant and have correctly been shown senior to him. All these officials have already been mentioned in the panel, which ends in 2002 and does not extend to 2003 and 2004. The applicant has been duly given the benefit of his being SC candidate in the original promotion panel of 2001 by placing him against a vacancy ear-marked for SC wherein he was placed above many of his seniors belonging to general category.

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12. Learned counsel for the respondents averred that the action taken by them is strictly in accordance with the government instructions. Therefore, the claim of the applicant should be dismissed.

13. We have heard the rival contentions of learned counsel for both the parties and perused the records.

14. Before going into the merits of the case, it would be pertinent to recapitulate the Government instructions on the subject of DPC. These have been cited by the counsel for the respondents and have been placed on record at Annexures R/1, R/2, R/3 and R/4. Briefly stated, the instructions are that i) the DPC meetings to fill up the vacancies in the post by promotion are held annually for each vacancy year. A vacancy year may be a calendar year or financial year. The vacancies comprise of the existing vacancies and the beginning of the vacancy year, anticipated vacancies in the grade due to retirement of the existing employees during the year and the chain vacancies on account of promotion etc.

ii) A select list is drawn to the extent of the vacancies available after considering all eligible candidates who fall within the zone of consideration and assessed fit for promotion by the DPC.

iii) The empanelled individuals are then offered promotion against the available vacancies and in the event of refusal of promotion when they are transferred outstation on promotion, they are debarred from promotion for one year. If such government servant refuses promotion he shall lose





seniority vis-à-vis his juniors will be promoted eventually to the higher grade. However, such individuals are again considered for promotion in the next year and empanelled accordingly.

15. The instructions for review DPC clearly provide that the proceeding of any DPC can be reviewed only if the DPC has not taken all material facts into consideration or if material facts have not been brought to the notice of the DPC or there has been a grave error in the procedure followed by the DPC.

16. As against this, the instructions for holding additional DPC are that where a DPC has already been held in a year for a certain number of vacancies and further vacancies arise during the same year due to death, voluntary retirement, resignation, new creations etc., clearly belonging to the category which could not be foreseen at the time of placing facts and materials before the DPC, in such case another DPC should be held for drawing up panel for these vacancies as these could not be anticipated at the time of holding the original DPC. If, for any reason, the DPC cannot meet for the second time during the same vacancy year, procedure of drawing up year-wise panels may be followed when it meets for drawing up panels in respect of vacancies of those subsequent years.

17. From a perusal of the aforesaid instructions relating to holding DPC, it is abundantly clear that the additional DPC would be held for the vacancy year when on account of any aforesaid reasons, a vacancy became available



19

13 during the same year after holding of DPC. The applicant Sh. Rishipal was included in the original panel for the year 2001 and by virtue of his being given promotion against a reserved vacancy of SC, he gained his seniority above his other colleagues for the DPC year 2001. The SP roll Chargeman-II which is the combined seniority list of Chargeman-I clearly shows that S/Shri Panna Lal, Kajal Kumar Ghosh and Smt. N.V. Lakshmi were senior to Rishipal being at Serial No. 66,67 and 75 respectively and the applicant Rishipal being at Serial No.107 (Annexure- R/11). Thus, when these three officials were considered for the additional vacancies of 2001, then the debarment period for the vacancy year 2002 would not operate against them.

18. In view of this matter, the applicant has no case as he has been rightly considered by the DPC for the vacancy year 2001 and subsequently for the vacancy year 2002 on the expiry of his debarment period.

19. For the foregoing discussion, the OA fails and is dismissed. No costs.

Chitra Chopra
(Chitra Chopra)
Member (A)

S. Raju
(Shanker Raju)
Member (J)

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