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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-711/2004

New Delhi this the 2nd day of August, 2004.

Hon'ble Shri Shanker Raju, Member(J)
Hon'ble Shri S.A. Singh, Member(A)

Shri Prakash S. Jaiswal,
S/o Shriramlal Jaiswal,
R/o p-260/3 ME Officers
Enclave, Air Force Station,
Palam, Delhi Cantt. Applicant

(through Sh. M.K. Bhardwaj, Advocate)

Versus

Union of India & Ors through

1. The Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. Engineer-in-Chief,
Army Headquarters,
DHQ, PO,
New Delhi-11.
3. The Secretary,
Department of Personnel &
Training, North Block,
New Delhi.
4. The Secretary,
Union Public Service Commission,
Shahjahan Road, New Delhi. Respondents

(through Sh. Surender ^{Kumar}~~Sharma~~, Advocate)

ORDER (ORAL)

Hon'ble Shri Shanker Raju, Member(J)

Heard the learned counsel.

2. Denial of consideration for promotion to
the post of Executive Engineer (QS&C) despite
fulfilling eligibility conditions has been assailed.

7

3. Applicant is a direct recruit through U.P.S.C. as ASW. In 1996, UPSC advertised number of posts to be filled through Engineering Services Examination held in 1997. Having all the eligibility criteria applicant applied. On qualifying the written test and interview name of the applicant was incorporated in the select list. He was placed at Serial No.99 of the select list. A consent was sought for joining the post. Applicant through his application consented for the joining without any delay. On receipt of this letter, applicant was required to join as ASW Shilong. In terms of letter dated 3.2.2000 issued from the office of Engineer-in-Chief in Delhi, applicant was required to report for duty on or before 31.3.2000. Applicant had reported for duty on 28.3.2000 and had completed probation period on 28.3.2002. During this interregnum, the applicant also qualified final exam (Sub. Division-II) conducted by Institution of Surveyors (India).

4. On transfer to Delhi in 2003, when the applicant was not considered for promotion to the post of EE(QS&C), he preferred a representation dated 23.9.2003.

5. Learned counsel of the applicant states by resorting to a decision of the Apex Court in Pilla Sita Ram Patradu Vs. U.O.I. & Ors. (1996(8)SCC 633) if the actual joining of a direct recruit is delayed

4

for some reasons it is not attributable to him and the eligibility cannot be reduced by counting the service from the date of joining. It would relate to the empanelment and recruitment. The aforesaid dicta has been relied upon by a Co-ordinate Bench in Chandigarh Bench in the case of Sudesh Kumar Gupta Vs. U.O.I. & Ors. (T-71/JK of 2003) decided on 22.09.2003.


6. The only ground taken by the respondents is that though admitting that the juniors to the applicant have been considered and promoted, his case has not been considered because of the delay in verification of character antecedents as envisaged in the rules.


7. In our considered view, delay in verification of the character antecedents when the requisite particulars have been furnished and the applicant had joined, as directed without any attribution by the applicant in the delay cannot affect the eligibility or other conditions of the service. The delay in verification has been deprecated by the Allahabad Bench of the Tribunal in camad Prakash Nigam Vs. U.O.I. & Ors. (1994(28) ATC 628). Keeping in view the decision of the Apex Court in Pilla Sita Ram Patradu's case where the eligibility has to be considered not from the date of actual joining but it would relate to the empanelment and recruitment. In this view of the matter, applicant fulfills the eligibility criteria and was eligible to be considered for promotion.

9

-4-

8. Denial of consideration is certainly not sustainable in law. In the result, OA is partly allowed. Impugned order is set aside. Respondents are directed to hold the review DPC to consider the case of the applicant to the post of EE(QS&C) and in case he is found eligible in all other aspects, he should be promoted to the post from the date his juniors have been accorded promotion with all consequential benefits. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs.


(S.A. Singh)
Member(A)


(Shanker Raju)
Member(J)

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