

Central Administrative Tribunal
Principal Bench: New Delhi

OA 677/92

New Delhi this the 17th day of February 1997.

Hon'ble Mr Justice B.C.Saksena, Vice Chairman (J)
Hon'ble Mr K.Muthukumar, Member (A)

Baleshwar Dayal Gupta
S/o Sh. Har Saran Dass
R/o B-103 Parshant Vihar
Delhi - 110 042.

...Applicant.

(By advocate: Shri A.K.Bhardwaj)

Versus

Union of India through

1. The Secretary
Ministry of Defence Production
Central Secretariat
New Delhi.
2. The Director General
Ordnance Factories
10-A Auckland Road
Calcutta - 1.
3. The General Manager
Ordnance Factory
Muradnagar
Dist. Ghaziabad (U.P.)
4. Surender Singh, Chargeman
Ordnance Factory
Muradnagar
Dist. Ghaziabad (U.P.)

...Respondents.

(By advocate: Shri V.S.R. Krishna)

ORDER

Hon'ble Mr Justice B.C.Saksena, Vice Chairman (J)

We have heard learned counsel for the parties.

The applicant through this OA seeks quashing of an order dated 13.1.92 by which his representation dated 29.10.91 seeking grant of notional seniority w.e.f. 1.1.76 had been rejected. The applicant further seeks a direction to be issued to the respondents to grant the correct seniority to him in the grade of Senior Rate Fixer/Senior Planner/Chargeman Gr.II/Chargeman Gr.I notionally w.e.f. 1.1.76 i.e. the date on which his juniors were given preference for promotion to the post of Senior Draftsman/Supervisor/Senior Planner/Senior Rate Fixer & Senior Estimator with all consequential benefits.

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2. From the pleadings on record, it is evident that the applicant is virtually claiming his promotion as Senior Planner ^{w.e.f. 1974. Bol}. According to the applicant, one Shri B.K.Bansal had been promoted as Senior Planner though the applicant was eligible to be so promoted. This plea of the applicant cannot be adjudicated at a belated stage. The OA was filed in the year 1992 and the applicant had not made any representation in that behalf. Representations on record only show that the applicant had been claiming fixation of notional seniority on an analogy when S/Sh. Raj Singh Tyagi, Suresh Chand Gupta and Mahabir Singh were given notional seniority from the date of promotion of ^{their} ~~his~~ junior viz. Shri Mahesh Chand.

3. In the first place, the learned counsel for the applicant conceded that there is no concept of All India Seniority of the employees of the Ordnance Factories. The seniority is Factory-wise. The applicant was appointed as Fitter on 1.1.69 in the Ordnance Factory, Ambajhari. He was transferred to G.C.F. Jabalpur on 3.2.69 and he was promoted as Planner on 10.6.71. Thereafter he was transferred to Ordnance Factory, Muradnagar. The applicant had averred in the OA that the aforesaid three persons had been promoted w.e.f. 1.1.76. In the counter affidavit, the respondents have indicated that the above three persons were given notional seniority not w.e.f. 1.1.76 as claimed by the applicant but w.e.f. 11.7.77. In the rejoinder affidavit, the applicant has not disputed ~~the date~~ ^{Bol} 11.7.77 as the date from which notional seniority was given to the aforesaid three individuals. Thus there is no basis to grant relief from 1.1.76. The relief (b) cannot also be granted in view of the Factory-wise seniority position and there is no All India Seniority. The applicant while working at Jabalpur was promoted as Planner. He was thereafter transferred to Muradnagar, ^{on 1.1.76} ~~on 1.1.76~~ ^{Bol}. He never held the post of Senior Planner/Chargeman Gr.II/Gr.I. The relief as claimed is totally misconceived for the aforesaid reasons. The only relief that remains to be adjudicated is the relief (a) ^{by} ~~for~~ which the applicant seeks quashing of the order dated 13.1.92 rejecting his

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request for notional seniority from 1.1.76. Repeated representations do not stop limitation from running. Virtually, the applicant is seeking his promotion to the post of Senior Planner from the year 1974 in an indirect manner. The OA was filed in the year 1992 and is clearly barred by limitation and is highly belated.

4. Learned counsel for the applicant submitted that the applicant was entitled to have been promoted to the grade of Senior Rate Fixer/Senior Planner/Chargeman Gr.II from the feeder post of Planner. This averment in the OA in para 4.3 has been disputed by the respondents. They have stated that the applicant was promoted from the post of Fitter Gr.A to Planner and his line of next promotion was Senior Planner whereas the line of promotion for highly skilled worker Grade-A/Examiner/Fitter A-Grade/Supervisor B-grade ~~was~~ to the grade of Supervisor A-Grade (Technical). In the counter, they have explained that one skilled worker A-Grade was wrongly promoted to the post of Supervisor A-Grade w.e.f. 11.7.77 in preference to the three individuals indicated herein above and consequently the three individuals were given notional seniority w.e.f. 11.7.77. Since the line of promotion for all of them was same, it has been pleaded that the line of promotion of the applicant was to the post of Senior Planner and, therefore, his claim that he should be given notional seniority at par with the above mentioned individuals is not justified. In the counter affidavit, it has been specifically stated that no Planner junior to the applicant was promoted as Senior Planner in preference to the applicant.

5. Learned counsel for the applicant on the basis of certain documents viz. orders of promotion etc. passed in the Gun Carriage Factory, Jabalpur and copy of which is annexed as Annexure A-15 that attempted to show the stand of the respondents with regard to the line of promotion of the applicant being different from the three individuals named above is not correct. No recruitment rules have

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been annexed to the OA or placed on record. We, therefore, do not see any justification not to accept the stand taken by the respondents in the counter affidavit with regard to the channel of promotion for various posts.

6. In view of the discussion above, the OA lacks merits and is accordingly dismissed.

No costs.



(K. Muthukumar)
Member (A)



(B.C. Saksena)
Vice Chairman (J)

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