

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

ALLAHABAD: THIS THE 5TH DAY OF AUGUST 2005.

ORIGINAL APPLICATION NO. 640 OF 1997

HON'BLE MR. D. R. TIWARI, MEMBER-A
HON'BLE MR. K.B.S. RAJAN, MEMBER-J

Munish Kumar Agarwal son of Late Chhotey Lal Agarwal, Retired office Superintendent Grade-II Ordnance Clothing Factory Shahjahanpur, Resident of 20, Pragati Nagar Behind Culab Rai Inter College Bareilly.

.....Applicant
(By Advocate : Shri Niraj Agarwal)

V E R S U S

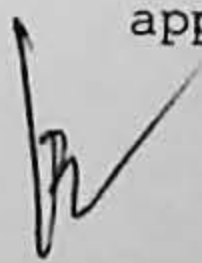
1. The chairman Ordnance Factory Board, X-A Auckland Road, Calcuta-700 001.
2. Additional Director General Ordnance Factories, OEF Head Quarters, G.T. Road, Kanpur-208 013.
3. General Manager, Ordnance Clothing Factory, Shahjahanpur.

.....Respondents
(By Advocate : Shri Ashok Mohiley - Absent)


O R D E R

By K.B. S. Rajan, Member (J)

A claim for promotion to the post of OS II w.e.f. 1982 and further promotion as OS I w.e.f. 1992 was filed in 1997 (after the applicant's retirement in January 1997). Apart from limitation staring at the face of the applicant, the facts of the case as enumerated hereunder would unhesitatingly testify that this is a vexatious application and is only liable to be dismissed.



2. The following are the minimal facts of the case required to decide the application:-

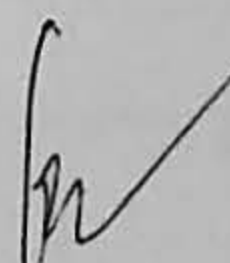
- (a) The applicant was appointed in July 1964 as a Lower Division Clerk and w.e.f. 22-05-1968 he was appointed as Punch and Verifying Operator in the very same scale of L.D.C. i.e. Rs. 110 - 180, (though this is claimed to be promotion by the applicant). And, in October, 1973, the applicant was promoted as Sr. Punch and Verifying Officer in the grade of Rs 150 - 240.
- (b) In July, 1979, the respondents have communicated to the applicant that in so far as Data Processing System is concerned, after P & V Operator, and Sr. P & V Operator, the next higher post is of Chargeman. Since some of the Sr. P & V Operators had at the beginning been inducted as LDC and after having the training in punch operation were re-designated as P & V Operators, such individuals were given the option to choose their channel of promotion either in the normal clerical channel or in the Data Processing System (DPS) channel. Accordingly, option was given to the applicant and if he chose the clerical channel for promotion he was to be
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considered for promotion to the post of O.S. Grade II and instead, if he opted to remain in the DPS channel, he would be considered for the higher post of Chargeman. On a clarification sought the applicant understood that in case of his opting for clerical cadre, he would, for the purpose of promotion as Supervisor/OS etc., be considered keeping in view his seniority position as LDC and as such, in response to the option asked by the respondents, the applicant first opted for DPS line vide letter dated 09-08-1979 (Annexure A-10) and subsequently he had requested that in lieu of his previous option, his option for switching over to clerical channel be allowed, vide letter dated 12-09-1979 (Annexure A-11). In 1981 the authorities had brought out a memorandum crystallizing the promotion channel for the DPS and those who had opted for clerical cadre. According to the same, the case of the applicant fell under para 3.5 of order dated 16-04-1981 and the same is as under:

"3.5. existing Sr. P.V.O. who have opted for clerical cadre in response to O.F., Board letter No. 175/DPS/A/NI dated 11-06-1979 will be considered for promotion only to O.S. II/Supr. A (NT/other than Stores) along with other eligible categories, i.e. UDC, Cashier, Assistant Cashier, Supervisor-B (NT)."

(c) The above situation resulted in the applicant not being considered for promotion in the DPS line and he found that his change of option had brought more of stagnation than of promotion, as others joined in DPS cadre had been afforded higher promotion of Chargemen etc., Hence, he had requested the authorities for consideration for promotion to the higher grade of Supervisor as the minimum experience as UDS is only 5 years whereas he had been serving in the grade for more than 8 years by then. However, the authorities had clearly stated that the applicant having opted for clerical cadre, had to wait for his turn for promotion as and vacancy arose in the said post.

(d) It was only in 1987 that the turn for consideration for promotion of the applicant had matured and accordingly, he was considered and promoted on ad hoc basis, as O.S. II, vide order dated 14-04-1987 (Annx A-20). The applicant had accepted the same and later on in 1992 he had once again revived his request for change of cadre or promotion in the same clerical cadre antedating his promotion as OS grade II and for further promotion in the grade of OS I/Chargemen w.e.f. August, 1992 when his junior was promoted.



This was followed by a reminder in 195 and further by 1996. Meanwhile the applicant had retired and then this OA is filed.

3. Respondents have contested the OA. They have contended that the applicant having opted for clerical cadre, he has been afforded promotion at the appropriate time and there is no question of his entitlement to the post in the DPS cadre or antedating the promotion in the clerical cadre.

4. Written arguments were submitted on behalf of the applicant which is the application in miniature.

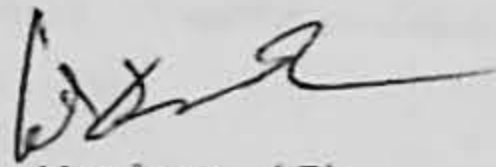
5. We have considered the case. The option exercised after cancellation of the earlier option had been acted upon by the respondents and as such, the applicant having chosen his own path of promotion channel, the respondents cannot be faulted with if there were no vacancies in the line chosen by the applicant. Just because his colleagues in the DPS cadre could be promoted to the higher post earlier than the applicant, the applicant's grievance about his non promotion does not deserve any sympathy. The applicant has to blame his own decision.

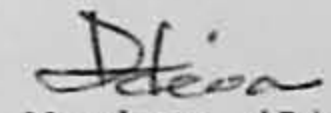
6. Apart from the above, the legal issue of limitation also stares at the applicant. The relief claimed is retrospective promotion from 1982 and the

OA filed is after 15 years of the arising of the cause of action. The same cannot under any circumstances be allowed.

7. Viewed from any angle, the OA, as stated at the very outset, is liable to be dismissed and we accordingly order so.

8. No costs.


Member (J)


Member (A)

/pc/