

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 25 day of SEPTEMBER 2005.

Original Application No. 1309 of 2001.

Hon'ble Mr. D.R. Tiwari, Member (A)
Hon'ble Mr. K.B.S. Rajan, Member (J)

Munney Khan, S/o late Kallu,
R/o 131/4A (II) Begum Purwa
Kanpur Nagar,
Employed as Upper Division Clerk (UDC),
With small Arms Factory,
Kalpi Road, Kanpur in Raj Bhasha Section.

.....Applicant

By Adv: Sri R.C. Singh

V E R S U S

1. Union of India, through Secretary,
Ordinance Factory Board,
Ayudh Bhawan 10 A Shaheed
Khud Ram Bose Road,
Kolkata.
2. Joint General Manager,
Administrative (in capacity of G.M.)
Small Arms Factory Kalpi Road,
Kanpur Nagar.
3. Sri R.P. Yadav, S/o Sri Ram Sewak,
Upper Division Clerk (UDC) work
Office Section Small Arms Factory,
Kalpi Road,
Kanpur.

.....Respondents

By Adv: Sri S.Singh.

O R D E R

By K.B.S. Rajan, JM

Seniority is the bone of contention in this case. The applicant claims that he having earlier worked as a group D employee, should, on his posting

[Signature]

as L.D.C. be treated as one having been promoted under the 10% quota for promotion and accordingly he should be assigned the seniority. Per contra, the respondents contend that the applicant's selection was as a direct recruitee, as the lone promotional post of LDC was filled by promotion of Shri Yadav, Respondent No.3.

2. The following is the contention of the applicant:-

The applicant entered the respondent's organization as a boy messenger in 1971 and was appointed as orderly in 1974. In 1981 some vacancies in the post of LDC became available and to fill up the same hands from the open market as well as from the department were called for and the applicant was one of the aspirants. According to the applicant he applied through proper channel for promotion to the post of LDC but his appointment order dated 21-09-1981 approving his position as LDC w.e.f. 14-09-1981 did nowhere disclose that his appointment was by way of promotion whereas, (according to the applicant) another candidate Respondent No. 3, who is ineligible to be considered for promotion as LDC (he being from technical side) was promoted as L.D.C. The result of the above selection, according to the applicant was that in seniority respondent No. 3 stole a march over the applicant which telescopically affected the career prospect of the applicant. Hence, the applicant has prayed for quashing of the seniority list published by the respondents, and for a direction to the respondent to afford the applicant the correct

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seniority and consequential benefit. It is the case of the applicant that he was never shown the seniority list in the past and the moment he came to know about the position, which according to him was wrong, he had filed the OA.

3. The respondents have contested the O.A. According to them, 7 posts of LDC became vacant which were to be filled as under:-

General	:	3
S.C.	:	1
S.T.	:	1
P.H.	:	1
By Promotion	:	1

And, in the selection, the applicant was taken as a direct recruit, while respondent No. 3. who was working in a Group D post from 29-06-1974 had been considered for the 10% promotion quota and was accordingly promoted. And the order of seniority position was in accordance with the provisions of Min of Personnel OM dated 3rd July, 1986 i.e. promotion followed by direct recruitment. The respondents have contended that the applicant was not unaware of his seniority position and he had, as early as in 1990 made a representation in this regard which was also responded to. It was therefore, contended that the applicant cannot try to unsettle the settled position of seniority at this distance of time.



4. The applicant has filed the rejoinder, reiterating his contentions and averments furnished in the O.A.

5. Arguments were heard and the documents perused. The documents clearly show that the applicant had zealously accepted his appointment as LDC under the direct recruitment quota and in 1990 he had made a representation against his lower position in the seniority, to which the respondents had furnished necessary reply. The applicant had never cared to agitate against the decision of the authorities by then. The applicant had also accepted quietly the ACP I granted to him in w.e.f. August 1999, which means that his appointment as LDC was a direct recruitment. As such it is evident that the applicant has accepted his appointment as LDC as a direct recruitment and finding his position in the seniority list at a lower level, he had belatedly filed this OA and by this time the matter of seniority had already been crystallized. As such, the applicant cannot be permitted to agitate against the same.

6. In view of the above the OA fails and is accordingly dismissed. No costs.



Member (J)



Member (A)

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