

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 13th DAY OF April, 2011)

Hon'ble Dr.K.B.S. Rajan, Member (J)

Hon'ble Mr. S. N. Shukla, Member (A)

Original Application No.94 of 2004

(U/s 19, Administrative Tribunal Act, 1985)

B.P.Kureel, aged about 51 years, S/o Late Chanda Lal, resident of House No. 4/213, Mannupurwa, Purana Kanpur, Kanpur Nagar, presently employed as Carpenter Highly Skilled, P.A. No. 31271-T, General Engineering Section, No. 1, Base Repair Depot (No.1 BRD) Air Force Station Chakeri, Kanpur Nagar.

..... ***Applicant***

Present for Applicant :Shri M.K.Upadhyay, Advocate.

Versus

1. Union of India, through the Secretary, Ministry of Defence, Government of India, New Delhi.
2. Chief of the Air Staff, Air Head Quarters, Vayu Bhawan, New Delhi.
3. Air Officer Commanding-in-Chief, Maintenance Command, Nagpur.
4. Air Officer Commanding, 402-Station, Air Force, Chakeri, Kanpur.
5. Commanding Officer, No. 1 BRD, Air Force, Chakeri, Kanpur Nagar.

..... ***Respondents***

Present for Respondents : Shri Himanshu Singh, Advocate

ORDER

(Delivered by Hon. Dr. K. B. S. Rajan, Member-J)

The applicant, who entered the service on 16.11.1981 as Civilian Carpenter (Skilled), was initially promoted as Highly Skilled Grade-II, in October, 1996 and Highly Skilled Grade-I in September, 2000. In fact, these two posts were, by virtue of acceptance of V Central Pay Commission Recommendations w.e.f. 01.1.1996, merged together. The next promotional post is Chargeman Grade – II, which arose on March, 2003. The claim of the applicant is that despite availability of vacancy, though in other units the vacancies to Chargeman Gr.-II were duly filled up, the applicant's case was not considered. He has, therefore, filed this OA challenging the order dated 05.9.2003 whereby his claim was rejected and he has also prayed for a direction to the respondent to grant promotion w.e.f. 01.3.2003.

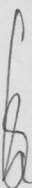
2. Respondents have contested the OA. According to them, the applicant's promotion to the post of HS-I being in the year 2000 only, his eligibility for consideration for promotion to the post of Chargeman Gr. II would be only after 30.9.2005 (after completion of five years of service), and subject to availability of vacancy. According to the respondents, the ratio of Technical Supervisor cadre had undergone a change in the ratio of 35 : 25 : 25 : 15; for Chargeman Gr. II, Gr.-I, Assistant Foreman and Foreman respectively. This had resulted in the reduction of vacancy of Chargeman Gr. II as there was already a surplus Chargeman Gr.-II in the Unit. The respondents therefore, prayed for the dismissal of the O.A.

3. After hearing the counsel for the parties, permission was also granted for filing written submissions.

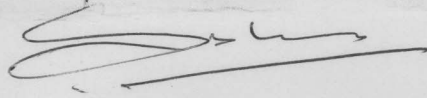
4. Arguments were heard and the written submissions of the respondents as well as pleadings considered. Admittedly, the applicant's promotion as HS. Gr.-I being w.e.f. 2000, his eligibility for Chargeman Gr.-II was only from 2005. It was in between that the Four Grade structure was introduced. The restructuring system was initiated more out of functional necessities and a policy decision. It is trite knowledge that a policy decision made by the Government shall not be interfered with unless such decision is rendered unconstitutional or is found violative of any statutory provisions. In this regard the Apex Court decision in the case of CSIR v. Ramesh Chandra Agrawal, refers, wherein, the Apex Court stated:-

33. Indisputably, a policy decision is not beyond the pale of judicial review. But, the court must invalidate a policy on some legal principles. It can do so, inter alia, on the premise that it is wholly irrational and not otherwise.

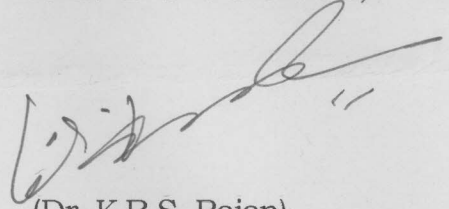
5. In so working out the restructuring if one or two posts get reduced (as in this case for the post of Chargeman Gr.-II) and promotional chances of a few are affected, the same would not be treated as illegal. For, primarily chances of promotion are not of fundamental right or a vested right. In any event in this case the applicant's eligibility for Chargeman Gr.-II being only from 2005, even if vacancy existed prior to 2005, the applicant could not have been considered.



6. In view of the above, the OA is devoid to merits and is therefore, rejected. No cost.



(S.N. Shukla)
Member (A)



(Dr. K.B.S. Rajan)
Member (J)

Shashi