

AP (14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDL.BENCH

A L L A H A B A D

Dt/- Allahabad this 12 day of April, 1906.
O.A. NO. 375/86

CORAM :- Hon'ble Mr. S. Das Gupta. A.M.
Hon'ble Mr. T. L. Verma. J.M.

1. M.C.Srivastava s/o Ayodhya Pd.Srivastava,
r/o 124/11m Govind nagar, Kanpur. - - - - - Applicant
2. Satya Pal son of Amar Nath,
r/o 10/11, Sewa Gram Colony, Kanpur.
- 3., Dashrath Singh s/o Rameshwar Singh,
r/o 224, Armapur State, Kanpur.
4. Ram Asrey s/o Jwala Prasad Jha,
r/o 231/1 Shashtri nagar, Kanpur.
5. K.C.Manna s/o M.C.Manna,
r/o 109/999, Ram Kishan Nagar, Kanpur.
6. S.K.Awasthi s/o T.R.Awasthi,
r/o 210/6, Labour colony, Dada nagar,
Kanpur.
7. Ahmad Raja s/o Abdul Rajjak,
r/o 84/53 Noor Mohd ka-Hatha,
Jarib Chowki, Kanpur.
8. R.S.Vishwakarma s/o R.N.Vishwakarma,
r/o 158/3, Labour colony, Vijai nagar,
Kanpur. - - - - - Applicants

C/A Shri O. P. Singh

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Union of India through

1. Secretary Ministry of Defence,
government of India, New Delhi.

2. General Manager, Small Arms Factory,
Kanpur.

C/R Shri Ashok Mohiley ----- Respondents

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ORDER (Reserved)

By. Hon'ble Mr. S. Das Gupta. A.M.

Eight applicants have jointly filed this application, seeking a direction to the respondents to promote them on the post of Examiner Grade I in highly skilled grade II in the pay scale of Rs.330-480 on the basis of selection held on 9.8.1984.

2. All the applicants were working on the post of Examiner Grade II in the Works ^{inspection} section of Small Arms factory, Kanpur in the pay scale of Rs.260-400. The respondents notified a list of names eligible to appear in the Trade test for the next higher post of Examiner Grade I by their order dated 19.6.1984. All the applicants figured in the list they appeared in the Trade test held in July 1984 and were declared successful among others by a factory order dated 9.8.1984 (annexure-2). It was stated therein that the said list shall be in operation for a period of 3 years. The grievance of the applicants ^{is} that although the said list has not been cancelled so far and 16 candidates from this list have already been promoted to the higher grade, the applicants were not so promoted

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despite the vacancies having arisen when 10 employees in the post of Examiner Grade I were promoted on the post of Examiner Highly skilled. Instead, certain other persons were promoted on the post of Examiner Grade I by an order dated 16.4.1985. The applicants filed a writ petition before the High court of Judicature at Allahabad for quashing the said order dated 16.4.1985. The said writ petition was dismissed by the order dated 29.4.1985, with a direction to decide the representations of the petitioners and not to make any promotion to Grade 1 Examiner until the decision on the representation. Thereafter the applicants filed joint representation for being promoted on the basis of selection made on 9.8.1984 and subsequently a representation was made on their behalf also by the General Secretary of one of the Unions. Thereafter 16 more employees were promoted by an order dated 6.5.1986 (annexure 11) from the post Examiner grade I to Examiner highly skilled whereby 16 vacancies were created in the post of Examiner Grade I. The respondents, however, issued a notification on 15.7.1986 for further trade test and the date of trade test was notified by an order dated 18.7.1986. Hence this application filed under section 19 of the Central Administrative Act 1985, seeking relief afore-mentioned.

3. Respondents have filed counter reply in which facts of the case have not been disputed. It has also been stated that on the basis of trade test result in which the applicants were also declared passed, 16 candidates could be promoted till 28.9.1984. Thereafter, however, the services of the employees of the Director General (Inspection) were merged with the O.F. Organisation with effect from 19.10.1984 and thereafter a fresh seniority list for all the trades/grades was prepared after taking into consideration the services of such employees transferred

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from Director General (Inspection). In that seniority list the applicants became much junior to the persons so transferred and therefore, the applicants could not be considered for promotion on the basis of Trade test result notified on 9.8.1984. It has been further stated that it was clearly stated in the notification of the trade test result that the promotion of those, who have passed the Trade test would be considered, when there are vacancies and in the opinion of the management, it was considered necessary to fill the said vacancies. Passing of Trade test alone did not entitle an employee to promotion.

4. The applicants have filed rejoinder affidavit, reiterating that fresh seniority list was not applicable in the case of the applicants as they have been declared passed in the Trade test prior to the issuance of fresh security list on the basis of which they should have been promoted. The delay in giving effect to the order dated 9.8.1984 has resulted in denial of promotion to the applicants.

5. We have heared the learned counsels for both the parties and carefully perused the records.

6. Admittedly the applicants had passed Trade test for promotion to the post of Examiner Grade I on 9.8.1984. 16 persons, who were above the applicants in the list of candidates were also promoted thereafter, however, a number of employees of another organisation were transferred to the organisation to which the applicants belong and the seniority list was to be re-drawn by inclusion of such employees. The order of the merger is not under challenge in this application. It is also not the case of the applicants that they were in any way senior to those transferred employees, who were holding position above them in the

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seniority list. Their only case is that such seniority list would not be applicable to them as they had passed the Trade test prior to the merger of the two organisations and the publication of the revised seniority list. This plea would have been tenable, if the applicants had shown that the vacancies were available in the cadre of Examiner Grade I against which they could have been promoted even prior to the merger of the two organisations. Such, however, is not the contention of the applicants. Once two departments have merged and the seniority list has been revised, any promotion made thereafter must abide by the ^{revised} seniority list. The said seniority list is not under challenge in this application. We, therefore, can not accept the contention of the applicants that they should have been promoted to the posts of Examiner Grade I ignoring the revised seniority list.

7. In view of the foregoing, we find that the applicants have failed to make any case, ^{warranting} interreference. This application is, therefore, dismissed. Parties shall bear their own cost.

J.M.

W.R.
A.M.

Siddiqui