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CENTRAL ADMINISTRATIVE TRIBUNAL, ALIABAD BENCH.

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Registration O.A. No. 711 of 1987

Jagjit Singh Applicant.

Versus

Union of India
and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

The applicant by means of this application has prayed that the Respondent Nos. 1 to 6 be directed to promote the applicant as Assistant Engineer E/M retrospectively w.e.f. the date of promotion of the juniors of the applicant, in pursuance of the panel for promotion to Assistant Engineer, E/M vide Army Head Quarters letter dated 12.12.1986 circulated vide the Chief Engineer, Lucknow Zone, Lucknow letter d of 1 December, 1986 treating the applicant as Senior in the promoted post vis -a vis the juniors of the applicant who have been promoted with entitlement to the applicant to all benefits arising therefrom, including seniority, arrears of pay etc. The name of the applicant appeared at Serial No. 3 of the Central Command Seniority and at Serial No. 222 of the All India seniority and those of the respondent Nos. 7 to 33, who were then in position under the Central Command, were shown as juniors to the applicant in the said seniority list of the Chief Engineer, Central Command Lucknow. The other respondents who were in position in different other commands, were also juniors to the applicant and were shown as such in the different seniority lists. This is an admitted position. The applicant

along with other respondents Nos. 7 to 33 were considered for promotion by D.P.C. held in November/December, 1986. The applicant's position was graded lower than the respondents by the D.P.C. and that is why the respondents ~~were~~ have promoted and the applicant was not promoted. The respondents have justified the same on the ground that because of upgradation, the applicant could not be promoted. There is no dispute between the parties that the selection was seniority-cum-merit. On behalf of the applicant it was contended that the selection being on the basis of seniority-cum-merit, the applicant was not unfit to have been promoted and graded, and the grading have no say in the matter, if ~~so~~ the selection would have been based on the basis of selection on merit. In this connection, a reference has been made to the case of State of Kerla Vs. N.M. Thomas AIR 1976 SC page 490, wherein, it has been observed that with regard to the promotion, the normal principles are either merit-cum-seniority or seniority -cum-merit. In the case of State of Mysore Vs. Syed Mahmood 1968 SLR (SG) page 738, wherein it has been held that where it is selection on the basis of seniority-cum-merit, weightage should be given to the seniority and a senior man can be overlooked only if he is found unfit, otherwise, he will be entitled for promotion. In the case of selection on merit, service record will be evaluated and the promotion is ^{to} based on the basis of grading by D.P.C. In the instant case, as the promotion was to be made on seniority-cum-merit and not selection on merit, respondents committed an error in depriving the applicant from promotional post by applying the principle of selection on merit.

2. Accordingly, this application is allowed and the respondents are directed to promote the applicant

with effect from the date his juniors were promoted and give him all the consequential benefits. The application is disposed of with the above directions. Parties to bear their own costs.

Roberts
Member (A)
Dated: 6.7.1992
(n.u.)

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Vice-Chairman