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RESERVED.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 921 of 1988.

Mahabir Sharma

....

Applicant.

Versus

Union of India & another

....

Respondents.

Hon'ble Ajay Johri, A.M.
Hon'ble G.S. Sharma, J.M.

(Delivered by Hon. Ajay Johri, A.M.)

By this application, filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who is a Charge-man in the Ordnance Factory at Kanpur, is seeking refixation of his seniority in the Highly Skilled Grade with effect from 1.1.1973 in view of the administrations' admission made in their letter of 17.5.1986 that he was earmarked for promotion as Highly Skilled Craftsman on completion of one year's satisfactory service.

2. The applicant was a National Trade Apprentice and was graded as Mill Wright (A) (MW(A)) with effect from 1.1.1972. ^{31.3.72} ~~He~~ After training, ^{31.3.72} ~~He~~ was promoted as Highly Skilled Workman (HSW) in September, 1976 and then as Chargeman in 1980. In connection with a representation, by a colleague of the applicant, the respondents advised him that the applicant was earmarked for promotion as Highly Skilled (HS) after satisfactory completion of one year's service. According to the applicant, he completed this service on 31.12.1972 but he was promoted with effect from 21.9.1976, so his promotion was delayed by nearly three years. The applicant represented against this delay but no reply was given to his representations. He then filed this application seeking the relief.

3. In their reply the respondents have said that the applicant was promoted on 21.9.1976 as Highly Skilled Craftsman (HSC)

when he was found eligible for promotion to the said post. They have admitted about the endorsement on the Gradation Result dated 22/24.2.1972. His case was examined in consultation with Ordnance Factory Board (OFB) and since he was junior, he could not be promoted with effect from 1.1.1973. The applicant was informed of the ^{31 position} promotion on 27.6.1979.

4. We have heard the learned counsel for the parties and perused the records. Annexure 'CA-1' to the reply given by the respondents is a photo copy of the representation made by the applicant on 17.7.1978 wherein he has referred to the /commendation of DGOF in the gradation list, on the basis of which he had sought promotion with effect from 1.1.1973 instead of from September, 1976. He was replied on 27.6.1979 (Annexure 'CA-2'). There is no averment from the applicant that he did not receive this reply.

5. Promotions are normally subject to seniority and suitability. The respondents' case is that on 1.1.1973 the applicant was not senior enough for being considered for promotion. Because he was fit for promotion as per the gradation list the applicant cannot claim or demand that he should also be promoted, out of turn, ignoring the claims of his seniors. Seniority is a vital element in service jurisprudence and cannot be ignored. Since he was not senior enough we do not find anything wrong in his not being considered for promotion with effect from 1.1.1973.

6. We also note that the applicant has wrongly stated in his application that he did not have knowledge of the fact that he was recommended for consideration for promotion in the 1972 gradation list. Copy of his representation made in 1978 belies this statement. So on this count also this application is not sustainable as it is badly time barred.

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7. In the above view, we dismiss this application
with costs on parties.

S. R. Narayana

MEMBER (J).

ZDR/ST/R

MEMBER (A).

Dated: February 17th, 1989.

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