

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 4th day of December, 2001

Civil Misc. Application for Review No. 103/97.

In

Original Application No. 838 of 1992.

COURT :

Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiuddin, J.M.

Radhey Shyam Mamgain,  
Son of Sri Shyam Lal Mamgain,  
at present working as Record Supplier  
(upto Electronics Factory, Raipur)  
District-Uhradun.

(Sri Rajesh Srivastava, Advocate)

• • • • • Applicant

Versus

1. Union of India through Secretary, Ministry of Defence, Government of India.
2. General Manager, Upto Electronics Factory, Raipur, Uhradun.
3. Departmental Promotion Committee, Upto Electronics Factory, Raipur, Uhradun through its Chairman.

(Km. Sadhna Srivastava, Advocate)

• • • • • Respondents

O R D E R (U\_r\_a\_l)

By Hon'ble Mr. S. Dayal, A.M.

This application for review has been filed for recalling the order dated 7-1-1997 passed in OA No. 838/92.

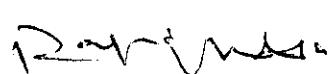
2. we have heard Sri Rajesh Srivastava, counsel for the applicant and Km. Sadhna Srivastava, counsel for the respondents.
3. we find that the review petition has been filed on the ground that Rule 5(2) of the Establishment and Administration Manual, which lays down the principles

for determination of seniority in Central Services was filed by the applicant in the JA. He claims that Rule 5(2) contains the provisions that where there is no quota and there are two feeding cadres the quota to the extent of 50% shall be considered. Learned counsel for the applicant has stated that the Tribunal erred in its judgement by stating that in case of two feeding cadres, seniority shall be on the basis of one combined seniority. It also erred in giving a finding that no quota was prescribed under rules for defence services. He states that Clause (ii) is provision that if separate quota for promotion has not already been prescribed in the relevant Recruitment Rules, the Ministry/Department may prescribe for in consultations with the Commission wherever necessary. Similarly Rule 5(2) contains a clarification that where posts in the feeder grade in different scales of pay or even in the identical or equivalent scales of pay, the officers upto the number of vacancies for each feeder grade as per the quota may be selected and interpolated in a combined select list according to the grading. Learned counsel for the applicant has contended that interpretation of the Tribunal is an error apparent on the face of record and, therefore, the order needs to be reviewed. we find that the Tribunal in its order in the said JA has stated that the applicant has not brought out any rule which would make it mandatory to fix a quota when more than one grade qualifies for the same promotional post. In a situation where no quota has been prescribed and all the feeders grades are in the same scale of pay, the only reasonable basis for promotion would be combined seniority list in which incumbents of all the feeders grades would be placed

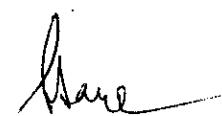
on the basis of date of holding the post. Learned counsel for the applicant has referred to Rule 5(ii) which is a general rule and it cannot be interpreted to mean that the quota has to be prescribed for the post of Tracer in the pay scale of Rs.975-1540. We also find from the order that the cadre of record Suppliers and Blue Printers and allied grades has been placed in the same scale of grade are to be feeder grades for promotion as Tracers. Therefore, the contention of the Learned Counsel that the list should have been prepared separately for each cadre and the selection should have been made in equal number in all the cadres is not borne out from the record.

4. The applicant has come to us in review, we do not find that this would be coming within the scope of review.

5. Learned counsel for the applicant has also contended that Sri Hoshiar Singh, who was empanelled as Tracer was promoted to the post of Machinist and a post had fallen <sup>vacant</sup> on which the applicant should have been promoted. This plea is not available to the learned counsel for the applicant in review. Hence, we find no merits in the case. The review application is dismissed.



Member (J)



Member (A)

Dube/