

Reserved.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH, ALLAHABAD.

.....

Original Application No. 1919 of 1993.

this the 26<sup>th</sup> day of April 2001.

HON'BLE MR. RAFIQ UDDIN, MEMBER (J)  
HON'BLE MR. S. BISWAS, MEMBER (A)

G.S. Saxena, aged about 49 years, S/o of late H.L. Saxena, resident of LIG 1467, Avas Vikas Colony, Yogana no. III, Panki-Kalyanpur Road, Kanpur, employed as Fitter Electronics (HS-II), Ticket No. 463/MEE, Field Gun Factory, Kanpur.

Applicant.

By Advocate : Sri M.K. Upadhyaya.

Versus.

Union of India, through the Secretary, Ministry of Defence, Department of Defence Production, Government of India, New Delhi.

2. General Manager, Field Gun Factory, Kalpi Road, Kanpur.

3. Sri B.P. Gupta, Ticket No. 1472/MEE, presently employed as Fitter Electronics (HS-I), Field Gun Factory, Kanpur.

Respondents.

By Advocate : Sri Ashok Mohiley.

O R D E R

Mr. S. Biswas, Member (A)

By this application under section 19 of the Administrative Tribunals Act, 1985, the applicant has sought the following reliefs:

(i) to quash the order of the respondents

nos. 1 & 2 promoting the respondent no.3 to the post of Fitter Electronics (HS-I) from Fitter Electronics (HS-II) in the Field Gun Factory, Kanpur by superseding the applicant, who is senior in the gradation list to the respondent no.3. The promotion was given effect to from 12.11.93 from which date the applicant seeks the quashing of the promotion order of his junior, and directions for his upliftment from that date with resultant benefits.

2. The applicant is presently an employee in the MEE Section of the Field Gun Factory, Kanpur (respondent no.2) and is working there as Fitter Electronics (Highly Skilled Grade-II). He was originally recruited to the post of Fitter 'C' (Electronics) on 14.3.78 in the scale of Rs. 210-290. Eventually when his turn came for promotion to the Fitter Electronics (HS-I) from Fitter Electronics (HS-II), he was superseded by the respondent no.3 who is allegedly his junior. In the order of promotion dated 12.11.93 (Annexure-1), the respondent no.3, who is his junior figured in 44 position and the applicant was overlooked. The applicant made a representation to respondent no.2 in this behalf on 16.11.93, but the same was rejected on 2.12.93 stating that the applicant was not found fit by the DPC for promotion. The applicant submitted a copy of the seniority list (Annexure-12) when as Fitter Electronics (HS-II) he was shown as senior to the respondent no.3, who was promoted in the order dated 12.11.93. The applicant contended that he had a clean and efficient record. The supersession by a junior was illegal.

3. The respondents have denied the contention of the applicant by interalia stating that he (applicant) was found 'unfit' by DPC.

*S. Bains*

4. Heard the both sides. We have also gone through the material facts as presented by the rival sides.

5. It is an undisputed fact that the applicant is senior to the respondent no. 3 and notwithstanding he managed to supersede him (applicant). The learned counsel for the respondents has placed before us a copy of the DPC findings dated 10.11.93. This has been annexed to the C.A., hence no longer a secret document. In this DPC, only three candidates statedly in order of seniority in the Grade of Fitter Electronics (HS-II) were considered for promotion to (HS-I). The DPC findings recorded against them are re-produced hereunder :

Performance Report  
Grading      Recommendation      Gradat  
for promotion - ion by  
DPC

1. Sri G.S. Saxena (applicant)	Fair	Yes	Unfit
T.No. 463/MEE			(Technical ability and reliability below average)
2. Sri B.P. Gupta (respondent)			
T.No. 1472/MEE	no. 3)	V.Good	Yes
3. Sri B.K. Mandal		Outstanding	Yes
T.No. 1791/MEE (SC)			Good

6. It is evident from the above DPC findings that the applicant was graded as 'unfit' for promotion by the said DPC. Though all the incumbents were recommended by the department for promotion, the DPC ( 10.11.93) found the applicant unfit after going through his ACRs/ and performance report (Annexure CA-4) where his supervisor/ Divisional Officer found him average in Technical knowledge and the Group Officer had graded him as 'fair' with remarks "technical ability and reliability is below average". This was further approved by the controlling Officer and his overall gradation was given 'fair'.

*S. Bini*  
*As the*  
*It is overall gradation being 'fair' was below the 'bench*  
*mark' required for promotion to Gr. 'C' post in selection*  
*he was found unfit for promotion.*

7. In this connection, we have also perused the instruction no.4 on SRO dated 28th July 1989, which has been annexed to the Rejoinder affidavit by the applicant himself in support of the contention that promotion from Fitter Electronics (HS-II) to Fitter Electronics (HS-I) was a non-selection post. This promotion was only subject to trade test and oral examination. We are not able to agree with the learned counsel's contention. This argument was mooted at the time of hearing. The departmental findings dated 28.7.89 on SRO as submitted by him, clearly shows that the promotion to highly skilled grade of HS-II Fitter Electronics was not a non-selection exercise, but it was specifically clarified as a selection promotion, subject to DPC (para 2.2.1). Hence, we find no merits in the O.A. The same is dismissed on merits. No costs.

S. Basu,  
MEMBER (A)  
GIRISH/-

D. M. Muddan  
MEMBER (J)