

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 970 of 1999

Allahabad this the 05th day of October, 2004

Hon'ble Mr.A.K. Bhatnagar, Member (J)
Hon'ble Mr.S.C. Chaube, Member (A)

Govind Misra, aged about 54 years, Son of Late Sri Madhav Misra, resident of Village Chhittupur, Varanasi Cantt. posted in the Office of the Senior Records, 39, Gorakha Records, Varanasi Cantt.

Applicant

By Advocate Shri A.K. Srivastava

Versus

1. Union of India through the Army Headquarter, I.N.F.-6 [Prs] DHQ, P.O., New Delhi.
2. The Senior Record Officer, Records 39, Gorakha, G.R. Varanasi Cantt.
3. Sri Upendra Nath Chaubey Office of the Senior Records 39, Gorakha, Varanasi Cantt.

Respondents

By Advocate Kms. S. Srivastava

O R D E R (Oral)

By Hon'ble Mr.A.K. Bhatnagar, Member (J)

By this O.A. applicant has prayed for quashing the impugned order dated 10.08.1999 after summoning the same from the respondents, with a further direction to the respondent no.1 and 2 to grant promotion to the post of Daftary.

2. The brief facts of the case, as per the applicant, are that he was appointed as Peon Group 'D' on 12.08.1964 in the Office of Artillery Records, Mathura. Thereafter he was confirmed on the post w.e.f. 22.06.1982, whereas respondent no.3-Upendra Nath Chaubey was initially appointed

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as Peon in the year 1973(27.12.1973) and was confirmed with effect from the date from which the petitioner was confirmed i.e. 22.06.1982. The respondent no.3 is Xth class pass and he is much junior to the applicant while applicant is Intermediate passed. The main grievance of the applicant is that respondents have promoted respondent no.3 as Daftary vide order dated 10.08.1999 ignoring the claim of the applicant who is senior to him and more qualified.

3. Learned counsel for the applicant pressing the grounds taken in para-5 of the O.A., submitted that the applicant being senior to respondent no.3 is entitled to be promoted to the post of Daftary and non grant of promotion to him, is illegal and arbitrary. He further submitted that the applicant is fully qualified for appointment on the post of Clerk under 10% departmental promotion quota but he has been deprived of the same illegally. Learned counsel further submitted that respondents are taking the work of Clerk from the applicant but did not even promote him to the post of Daftary. Although applicant has qualified in the written test for appointment on the post of Clerk but the respondents are not giving him promotion on the said post, so the action of the respondents is arbitrary.

4. Resisting the claim of the applicant, respondents have filed the counter-affidavit, followed by rejoinder, filed by the applicant.

5. Learned counsel for the respondents inviting our attention on para-12 and 13 of the C.A. submitted that one vacancy of Daftary occurred on 01.01.1999. As per existing policy officials posted on compassionate ground will reckon their seniority from the date of reporting

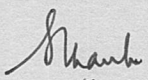
for duty in the new unit or establishment as per revised instructions contained in Raksha Mantrayalaya letter dated 29.06.1973(reproduced in CPRO 73/73). The applicant challenged the seniority list prepared by the Office vide his application dated 15.02.1999 (annexure C.A.-1). Thereafter case was referred to Army Headquarters vide Office letter dated 26.02.1999 for confirming the correctness of the seniority list prepared by the Office(annexure C.A.-2). The Army Headquarters-respondent no.1 intimated that seniority roll in respect of Group 'D' employees prepared by this Office based on CPRO 73/73 is in order(Annexure C.A.-4). In the seniority list Shri Upendra Nath Chaubey is senior to the petitioner as he had reported for duty in Records 39 Gorkha Rifles much earlier than the petitioner i.e. on 26.12.1979. Promotion of Daftary was made on the basis of seniority-cum-fitness and respondent no.3 was found senior and fit for promotion by Departmental Promotion Committee. Therefore, respondent no.3 has been promoted to the rank of Daftary w.e.f. 01.01.1999. Learned counsel finally submitted that entire action has been taken ~~place~~ under Rule 5 by a competent Departmental Promotion Committee after getting confirmation from the Army Headquarters in this matter. Hence, the claim of the applicant is misconceived and is liable to be rejected.

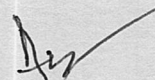
6. We have heard the learned counsel for the parties and perused the pleadings available on record.

7. We have gone through the letter dated 15.06.1999 (annexure C.A.-5). In column 5 it is clearly written that individuals will ~~be~~ reckon their seniority from the date of reporting for duty in the new unit or establishment

as per revised instructions in Raksha Mantralaya letter dated 29.06.1973, reproduced in CPRO 73/73. We have also gone through annexure C.A.-6, in which respondent no.3 was shown senior to the applicant, as he reported[✓] for duty in Records 39 Gorkha Rifles on 26.12.1979 whereas applicant has reported for duty on 22.03.1982. This documents also shows that respondent no.3 is senior to the applicant on unit basis.

8. In the facts and circumstances of the case and in view of aforesaid discussions, we find no merit in the O.A., which is dismissed accordingly. No order as to cost.


Member (A)


Member (J)

/M.M./