

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No. 461 of 2003

Allahabad, this the 6th day of June 2003

QUORUM : HON. MAJ. GEN. KK SRIVASTAVA, MEMBER A
HON. MR. A.K. BHATNAGAR, MEMBER J

Gopi Kant Jha s/o Late Dashrath Jha, at present holding the post of Senior Storekeeper at 24 E.D. Air Force Station Manauri, Allahabad residing at Quarter No. P/197, Old Project Air Force, Manauri, District- Allahabad.

... .Applicant.

(By Advocate : Sri I.Ahmad
Sri I.R.Singh)

Versus

1. Director (Personnel) Civilian Air Head Quarter, V-ayu Bhawan, New Delhi.
2. Air Officer (Personnel) Head Quarter, Vayu Bhawan, New Delhi.
3. Air Officer Commanding No. 24 Equipment Depot. Air Force Station Manauri, Allahabad.
4. Union of India through its Defence Secretary, New Delhi.
5. Shri Bhaiya Lal SSS of 24 Equipment Depot Air Force Station Manauri, Allahabad.

... .Respondents.

(By Advocate : Sri R.C.Joshi)

O R D E R(Oral)

BY HON. MAJ GEN KK SRIVASTAVA, MEMBER A

In this O.A. filed under section 19 of Administrative Tribunals Act, 1985, the applicant has prayed for quashing the impugned orders dated 13.4.2003 and 19.4.03 passed by respondent no. 3 so far as it relates to the applicant and respondent no. 5. The applicant has further prayed the direction ^{that} be issued to respondent no. 3

i.e. Air Officer Commanding, ^{No.} 24 Equipment Depot, Manauri,

Allahabad to consider the posting of the applicant on ^{the promotion} his promoted post of civilian Gazetted Officer(Equipment) at Air Force Station, Manauri with all service benefits or else to accept his unwillingness for promotion.

2. The facts, in short, giving rise to the application are that the applicant was appointed as Storekeeper in the year 1966. He was promoted from time to time and is presently holding the post of Senior Store Superintendent at Air Force Station, Manauri. During September, 2002, the applicant was promoted on the post of Civilian Gazetted Officer ^{AF Station Bamrauli} which was conveyed to him on ^{30.12.02}. The applicant represented on the same day before respondents and prayed for posting on ^{join} promoted post at Manauri ^{against} existing vacancy. The applicant further submitted a representation on 21.2.2003 with a prayer that the applicant be either accommodated on the promotional post at Manauri itself or his unwillingness be accepted. The applicant filed O.A No.219 of 2003 which was disposed of by order dated 10.3.2003 with direction to the respondents to consider his case. The respondent no. 3 passed the impugned order on 13.4.2003, rejecting both the claims of the applicant and directed that he should join ^{his} promotional post at Bamrauli, Allahabad.

3. Sri I.R.Singh, learned counsel for the applicant submitted that the action of the respondents is arbitrary and against the rules, a promotional post of Civilian Gazetted Officer(Equipment) was available at Manauri which has been filled ^{only} on 19.4.2003 i.e. just after the rejection of the representation of the applicant. The learned counsel for the applicant also submitted that the applicant has to superannuate after about 1 year, his wife as well as he himself keeps bad health and in case the applicant moves to

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Bamrauli, ^{by} he will be put to a lot of hardship because on the one hand he will have ^{to} vacate the ^{in Govt} accommodation at Manauri ^{and} on the other hand he will not be able to get accommodation at Bamrauli because of long waiting list.

4. Resisting the claim of the applicant Sri A. Gopal, learned counsel for the respondents submitted that the applicant was relieved on 07.3.2003 itself. When the ^{Border and Welfare} promotion ^{on the following} orders were sent to his residence ⁱⁿ the wife of the applicant refused to take the same. Besides the applicant avoided receiving the same ^{if the respondents avoid refusing the same}, therefore, the same were posted at the applicant's house. The cadre controlling authority in respect of applicant is the Air Headquarters and all the decisions are required be taken by Air Headquarters.

5. In the instant case Air Headquarters have not been accepted the request of the applicant in regard to his promotion at Manauri itself and also that his request for unwillingness ^{could} ^{not} be accepted ^{as per rules}.

6. We have heard counsel for the parties, carefully considered their submissions and perused records. In our opinion it is a fit case to be decided at the admission stage itself.

7. The grievance of the applicant is that though the promotional post of Civilian Gazetted Officer(Equipment) was vacant at Manauri but the respondents did not posted him against that. We are not inclined to accept this argument. The court cannot intervene in such matters itself. The prerogative of the respondents to post a person anywhere on ^{the} promotion in view of ^{the} administrative exigency. The applicant has been promoted and posted at Bamrauli. We did not find any illegality in the action of the respondents.

8. As regards the question of accepting his unwillingness

for promotion and praying for continuance at his own post, we have seen the order of respondents dated 13.4.2003 filed as Annexure AI. The Headquarters being competent cadre controlling authority of storekeeper staff has rejected to accept the unwillingness. The request for promotion on the ground that he did not submit an unconditional unwillingness certificate. We have perused our order dated 10.3.2003 through which we directed that the case of the applicant for refusing promotion shall be considered, in case, the applicant files adverse career certificate in the proper format. The applicant did file the same after the order dated 10.3.2003 was passed. The condition of the respondents is that on a subsequent date this could not be considered by the Headquarters as the applicant had already been relieved prior to the date. This order was issued and once he was relieved, he could not be taken back on that post. While we agree with the submission of the respondents in this regard. We would certainly like that the interest of applicant is safeguarded as he is in the last leg of his long service of more than 37 years.

9. In the facts and circumstances and aforesaid discussions we dispose of this O.A. finally with direction to the applicant to join his due promoted post of Civilian Gazetted Officer(Equipment) at Bamrauli as per respondents' order. The respondents are directed that a suitable accommodation is provided to him at Bamrauli as per rules. He shall not be dispossessed from the present Government Accommodation which he is occupying at Manauri on normal rents, with the above direction the O.A. is disposed of at admission stage itself.

10 No costs.

Member J

Member A

Brijesh/-