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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

O.A. No. 442 of 1992

Cuttack, this the 31st day of July, 1996

Corum :

1. Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman
2. Hon'ble Mr. N. Sahu, Administrative Member

S. Bhaskaran, aged about 49 years, s/o. M. Sankve, at present working as Charge Mechanic (Senior Mechanic) (Refg) MES No. 468339 C/o. A.G.E.E./M(P) Garrison Engineer(P), (I) Chilka. Applicant

By the Advocate - Dr. V. Prithiviraj

Versus

Union of India & Ors. Respondents

By the Advocate - Mr. Ashok Mohanty

Heard on : 27.6.1996

O R D E R

A.K. Chatterjee, VC

The applicant is working as a Charge Mechanic in the office of Garrison Engineer, Chilka and despite his long seniority and satisfactory services, his name was not included in the panel for promotion to the next higher grade of Master Craftsman as circulated on 14.6.89, while some other Charge Mechanic, junior to the applicant employed as respondent Nos. 5 to 16 were included in it and promoted. Such promotion is challenged on the ground that the question of promotion should be considered only on the basis of the seniority as there was no rule for selection on merit-cum-seniority basis. It was also contended that he was never communicated any adverse remarks in his Confidential Character Reports and further the D.P.C. never considered his case at any time. The applicant has made a prayer

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for a suitable direction to consider his case and to promote him to the post of Master Craftsman and other relief.

2. The official respondents in their Counter have stated that the present application filed on 2.9.92 was barred by limitation since the applicant was intimated about the reason for denial of promotion to him on 26.2.90 on a representation made by him on 27.11.89. Further case of the official respondents was that the Master Craftsman was a selection post and the case of the applicant was duly considered by the D.P.C. held on 21.4.89 and on subsequent dates, but due to his low merit position, as assessed by the D.P.C. on the basis of record of his performance, his name was not included in the select list, while the Craftsmen, who were junior to the applicant and superseded him, were graded having higher merit.

3. One of the private respondents, namely Sri Chand Ratan Purohit, the respondent No.6 has also filed a counter raising more or less same pleas as the official respondents.

4. We have heard the Ld.Counsel for the applicant and Mr.Mohanty, Ld.Sr.Standing Counsel and also perused the records before us. The ground of limitation does not appear to be convincing as the benefit of promotion or rather the lack of it due to denial thereof continues to this date. It does not, therefore, appear reasonable to throw out the application on this ground alone and we wish to consider the applicant's case on merit.

5. The bone of contention of the applicant is that there is no rule that selection to the post of Master Craftsman should be made on merit-cum-seniority basis and in any case, there being no adverse comments in his CCR, nothing had ever been communicated to him, ~~he~~^{he} should have been considered and his name is included in the select list. The respondents have produced the letter

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dated 21.9.82 of the Ministry of Defence, which lays down a procedure for selection to the grade of Master Craftsman and it specifically provides that standard will be judged on the basis of persistent attainment of very high skill levels in job execution. In view of this selection procedure, it cannot be successfully urged that promotion should have been made on the basis of seniority alone.

6. Once this position is accepted, it nearly touches the root of the applicant's case. Even though the applicant might not have been communicated any adverse comments in his C.C.R. and thus even assuming that there was no such comment therein, it does not follow that he should have been selected for the simple reason that those selected might have been placed above the applicant due to higher grade. Indeed, it was the definite case of the respondents that the case of the applicant was very much considered by the D.P.C. on 25.4.89 and on subsequent dates, but he held lower position in the merit list than those selected. It has been stated in the application that there was no parameter to evaluate the merit of the applicant. This contention too is without any substance as the record of performance provides necessary basis for assessment and it was on this basis that the DPC made the selection from among group of candidates which included the applicant. We, therefore, find no reason to interfere with the selection made by the D.P.C.

7. The application is accordingly rejected. We, however, make no order as to costs.

Narasimha Sahu
(N. Sahu) 31/7/96
Member (A)

A. K. Chatterjee
(A. K. Chatterjee)
Vice-Chairman