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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.748 of 2011

Cuttack this the 11th day of February, 2014
CORAM

HON'BLE SHRI A.K.PATNAIK, MEMBER(J)
HON'BLE SHRI R.C.MISRA, MEMBER(A)

Sri Hemanta Kumar Barik
Aged about 41 years
S/o.Mayadhar Barik of Village & PO-Barabati
District-Balasore – at present working as
Barber under the Director PXE Establishment, Military Wing
Chandipur, Dist-Balasore

...Applicant

By the Advocate(s)-M/s.B.S.Tripathy
M.Ku.Rath
J.Pati
Mrs.M.Bhagat

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Union of India represented through

1. The Secretary,
Ministry of Defence, R&D,
Defence Research & Development Organization
Room No.531, 137
South Block, DRDO Bhawan
Rajaji Marg
New Delhi-110 105

2. The Chief Controller (R&D)
Defence Research & Development Organization
Room No.531, 137
South Block, DRDO Bhawan
Rajaji Marg
New Delhi-110 105

3. The Director
Proof & Experimental Establishment (PXE)
At/PO-Chandipur
Dist-Balasore-756 025

4. The Joint Director (Admn)
Proof & Experimental Establishment (PXE)
At/PO-Chandipur
Dist-Balasore-756 025

...Respondents

By the Advocate(s)-Mr.D.K.Behera



ORDERR.C.MISRA, MEMBER(A)

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Applicant in the present Original Application is working as a Barber under the Director, Proof & Experimental Establishment, Chandipur in the District of Balasore, Odisha. He has approached this Tribunal with a prayer that the order dated 19.8.2011 passed by Respondent-authorities which has been filed at Annexure-A/9 to this O.A. may be quashed and appropriate direction may be issued to Respondent-Department to consider the case of the applicant for his promotion to the post of Technician-A and induction into the DRTC on transfer basis.

2. The facts as stated in the O.A. are that the applicant was appointed as Barber on 18.11.1991 in the Proof & Experimental Establishment at Chandipur, Balasore. During his period of working, Ministry of Defence vide its resolution dated 29.8.2008 decided to train non-Matric Group-D staff for multi skilling and placing them in PB-1 within six months. Instructions in this light were issued to the Directors of all Laboratories and Establishments. The applicant being a non-Matric Group-D employee was nominated to attend training at PXE from 5.1.2009 to 15.1.2009. After the successful completion of training, the applicant along with others were reclassified as Group-C employees. During the year 2010, Ministry of Defence, in the Department of Research & Development issued a circular indicating therein that all those who may opt cadre change through special assessment will have to undergo a hands on training on equipment and machinery in PXE for a duration of 96 hours and after the training, they will be assessed for induction as Technician A and only those who are considered fit for appointment as Technician A will be inducted into DRTC. While the matter stood thus, the applicant along with other ALS employees were sent for a training

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course which was conducted from 6.12.2010 to 17.12.2010. The applicant successfully completed this Skill Development Training Programme. Though the applicant underwent this training programme along with other ALS Personnel while the other ALS personnel were called to appear before the special assessment board for induction into the Defence Research and Development Organization Technical Cadre (DRTC), the applicant was not called for the same even though he was eligible and entitled for such induction. The ALS personnel who were found fit by the Special Assessment Board were inducted into DRTC on 6.6.2011. The applicant was therefore, aggrieved and submitted a representation dated 8.8.2011 before the Director, PXE of Chandipur claiming his induction into DRTC on the same footing as that of the other ALS employee who were inducted. In response to this representation, the Head of the Administration of PXE, Chandipur in letter dated 19.08.2011 informed the applicant that only those Tradesmen - E who were re-designated as ALS with effect from 1.12.2000 got one chance to become Technician and the minimum required qualification for the post of Technician-A is 12th standard ITI Pass which is filled up through Limited Departmental Clerical Examination(LDCE) and as such the request of applicant for induction into DRTC was rejected. This order dated 19.8.2011 filed as Annexure-A/9 has been challenged by the applicant in this O.A.

3. Learned counsel for the applicant has assailed this order as illegal and arbitrary because the applicant had successfully completed multi skilling training programme and was reclassified as Group-C employee like similarly placed personnel. While personnel with similarly ^{re} classification have been inducted into DRTC his case has been ignored resulting in a situation of discrimination against

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him. He has no promotional prospects in his post of Barber in which he has been appointed on 18.11.1991. Non-Matric ALS personnel were given promotion to the post of Technician-A in DRTC after successful completion of the training and the applicant has been left out thereby blocking his chance of promotion. It is his further allegation that his representation was not considered in the correct perspective and his case was rejected in an order which is very cryptic.

4. Respondents have filed their counter reply in which they have submitted that as per the provisions of the Defence Research & Development Organization Technical Cadre Recruitment Rules, 1995, 50% of vacancies in the grade of Technician-A were being filled from amongst those holding the post of Tradesmen – E, Laboratory Attendant, Blu^e Printer and Ferro Printer after a Special Assessment, 25% through Limited Departmental Competitive Examination and 25% through Direct Recruitment. These rules were amended in the year 2000 and according to amended rules, 50% of vacancies in the grade of Technician-A category are filled through the LDCE and another 50% through Direct Recruitment. As per the DRDO Attendant Laboratory Service(Group-C & Group-D) Recruitment Rules, 2000 which came into force from 1.12.2000, the incumbents of the Tradesman E post were re-designated as Attendant Laboratory Service 'B'. Subsequently, the Ministry of Defence on 13.10.2010 decided to fill up the vacancies in the grade of Technician-A in relaxation of the Recruitment Rules, 2000 from amongst the erstwhile Tradesmen- E who were re-designated as ALS with effect from 1.12.2000 by way of special assessment and after a mandatory training. It is the submission in the counter reply that the applicant was appointed as Barber in the year 1991 and he was never appointed as

Tradesman-E. Since he was not appointed as Tradesman-E, he cannot claim induction into DRTC in terms of the Government of India, Ministry of Defence letter dated 13.10.2010. It is further submitted that the representation made by the applicant on 8.8.2011 was examined and as only erstwhile Tradesman-E who were redesignated as ALS with effect from 1.12.2000 were to be assessed for induction as Technician-A in terms of Government of India letter dated 13.10.2010 and the special assessment of erstwhile Tradesman E for induction in the DRTC was granted as a one-time measure as clarified by DG(R&D), DRDO a suitable reply to the said representation was given by the Head Administrative ^{on R} of PXE vide letter dated 19.8.2011 which is filed at Annexure-A/9. The applicant was advised in this reply that ^{if} ^R he has the required qualification he can apply for the post of Technician-A post when LDCE for Technician A will be announced in PXE. It has been reiterated in the counter reply that the prayer of the applicant for his induction into DRTC has not been considered because he was not appointed as Tradesman-E. It has been further averred that the Skill Development Training was arranged for non- matric employee who were not in a position to read and write Hindi or English and this training cannot make an employee eligible for appearing in the special assessment for induction into DRTC in terms of Government of India letter dated 13.10.2013. A submission has been made that the applicant's request for induction to DRTC training was not rejected because he has not 12th standard and ITI pass, but because he was not an erstwhile Tradesman-E before his re-designation as ALS which was a pre-requisite for induction into DRTC, in terms of Govt. of India letter dated 13.10.2010.

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5. Learned counsel for the applicant has also filed a rejoinder in which he has reiterated his claim . The basic point that he has asserted is that when Tradesman-E having no required qualification of 12th standard ITI pass were given a chance to become Technician-A and inducted into DRTC, it is discriminatory in not considering the case of the applicant who stands on a similar footing as that of the Tradesman-E.

6. We have heard the learned counsel for both the sides and perused the record.

7. The impugned order at Annexure-A/9 dated 19.8.2011 in which the applicant was informed that only those Tradesman-E who have been redesignated as ALS had got once chance to become Technician-A in terms of the Government of India letter dated 13.10.2010, after undergoing a hands on training and after passing through an assessment interview, Technician-A is also selected for establishment through LDCE in Lab level if an employee is having required qualification of 12th standard and ITI pass in any trade required for establishment. It was also indicated to him in Para-4 of the said order that if he had the required qualification he could apply for Technician – A post when LDCE FOR Technician A post would be announced in PXE.

In course of hearing, the learned counsel for the applicant was asked to apprise us as to whether the applicant had availed of this opportunity, which was offered by the Respondents vide Annexure-A/9. The 2nd issue that was pointed out to the learned counsel in course of hearing that since the applicant has made an allegation that similarly placed personnel were given opportunity of being inducted into DRTC whereas his case has been ignored, he should have

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mentioned specifically the names of such personnel who have been given this preferential treatment. We also find that the applicant has not arraigned those personnel who have received preferential treatment as party-respondents to this O.A. although the prayer is for quashment of the order at Annexure-A/9 and such a quashment will lead to a situation where the rights of the parties who are not before us in this O.A. will be severely affected. On the other hand, the opportunity that has been offered by the PXE, DRDO to the applicant in the event of such quashment will also get nullified. The learned counsel for the applicant in this context has agreed that the applicant will make a representation to the authorities putting forth his claim as per the contents of the letter dated 19.8.2011 (Annexure-A/9) which the Respondents will consider as per the extant rules and instructions in this regard. The learned counsel for the Respondents has also agreed to this proposition.

Accordingly, this O.A. is disposed of with instructions to the applicant to make a representation/application to the concerned authorities for the post of Technician-A in terms of the advice given by the Respondents in their letter dated 19.8.2011)Annexure-A/9) and in case any such representation/application is received, the Respondents are directed to consider the same in the light of the rules and instructions applicable in this matter and dispose of the same as expeditiously as possible.

With the above observation and direction, this O.A. is disposed of with no order as to costs.

(R.C.MISRA)
MEMBER(A)
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(A.K.PATNAIK)
MEMBER(J)