CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.MA 544 of 1998
OA 1530 of 96

Present : Hon'ble Mr.D.C.Verma, Vice-Chairman
Hon'ble Mr.S.Jha, Administrative Member

D. N. SOREN

VS

UNION OF INDIA & ORS.

For the applicant : Mr.P.K.Munsi, counsel

For the respondents: Ms.K.Banerjee, counsel

Heard on : 13.9.04 Order on : 17.9.2004

O R D E R

S.Jha, A.M.

The application has been filed with prayers that the respondents be directed to correct the seniority of the applicant in the grade of Electrician (Gr.II/III) on his usual promotion w.e.f. 1.10.92 and that consequential benefits of promotion to the post of Electrician (Grade I) against ST vacancy be given to him.

2. The facts of the matter, briefly, are that the applicant who was initially inducted in the Industrial Establishment of the respondents as Mazdoor on 2.9.87, belonging to ST community, was appointed to the post of Apprentice Tradesman (Electrician) as on 1.10.91 in the scale of Rs.800-1150/-, as revealed from the seniority list of the Industrial Employees (Tradesman) as on 1.3.94 (Annexure 'A'). The applicant has claimed that he was entitled to regular appointment as Electrician (Gr.II/III) in the scale of pay of Rs.950-1400/- w.e.f. 1.10.92. He concluded his Apprenticeship satisfactorily, as claimed by him. There is a reference to the fact that he was on medical leave for 34 days during 25.12.91 - 21.1.92 while under medical treatment in Govt. hospital and that the principle that whoever remains absent for 75 days shall not be considered for promotion is not applicable to him. A reference has also been made to the case of one Shri S.K.Tudu, another ST employee, who was recruited as a Probationary Tradesman (Electrician) directly,

and who joined in the Mint on 24.2.92. The applicant has claimed that the said Shri Tudu was eligible for regular appointment as Electrician (Gr.II/III) on 24.2.93. Accordingly, he has concluded that while he should have been appointed to the said Grade as on 1.10.92 and ShriTudu on 24.2.93, the respondents have not given him the benefit of promotion accordingly. While Shri Tudu has been given appointment to the post of Electrician (Gr.II/III) w.e.f. 24.2.93, in his case the respondents have allowed promotion only w.e.f. 1.3.93 vide order No.44/94 dated 9.3.94. He has alleged that Shri Tudu being junior to him, the respondents have discriminated against him. Reference has also been made to the case of one Shri Md.Sami against the reserved ST vacancy vide the same order, namely, No.44/94 dated 9.3.94 and it has been argued that the post of Electrician (Gr.I) should have been given to the seniormost ST incumbent in the post of Electrician (Gr.II/III). Obviously, he is aggrieved by the promotion of Shri Md.Sami to the post of Electrician (Gr.I). The applicant has also submitted that while the respondents have admitted the factual position and the alleged irregularity in respect of interse seniority between him and Shri Tudu, they have kept the matter pending and, instead, sent the name of a non-ST un-reserved candidate, Shri G.K.Halder, Electrician (Gr.II/III) for filling one unreserved vacancy in the next higher grade. Incidentally, he has not made Shri Tudu as a respondent in this case for the reasons as submitted by him in paragraph (p) of his OA.

3. The respondents, however, have maintained that the applicant has no case vis-a-vis Shri Tudu, as the latter is senior to him in the feeder grade, i.e., Electrician (Gr.II/III). They have submitted that while Shri Tudu was appointed in the said grade on 24.2.93, the applicant was appointed in the said grade only on 1.3.93. They have also pointed out, the order No.44/94 dated 9.3.93 whereby the applicant was promoted to the post of Electrician (Gr.II/III) w.e.f. 1.3.93 A reference had also been made to the fact that the applicant should

have pointed out errors and ommissions, if any, in the Mint Notice No. 59/94 dated 16.4.94 whereby he was shown to have been appointed/ promoted as Apprentice Tradesman 'Electrician' in the scale of pay of Rs.800-1150/-, within one month from the date of distribution of the said notice, as the seniority list would have become final thereafter and which would not have been re-opened after the expiry of one month.

4. The respondents have further submitted that 50% of vacancies of Tradesman Gr.III were required to be filled by outside recruitment and the remaining 50% by promotion from the cadre of non-Tradesman Cl - V according to the Mintwise seniority subject to the rejection of the unfit. However, it is not clarified whether and if so in what way it has affected the promotion of the applicant vis-a-vis Shri Tudu. There is, however, a reference to the fact that after completion of one year in the grade of tradesman, internal Apprentice Tradesman/ Probationary Tradesman are considered for promotion to the post of Electrician (Gr.II/III). It is noted that only such Apprentice Tradesman/Probationary Tradesman are considered for promotion to the post of Electrician (Gr.II/III) who possess the competency certificate and also qualify in the Trade Test. Subsequently, it has been held by the respondents that Shri Tudu, having been recruited as Probationary Tradesman 'Electrician' (Gr.II/III), whereas the applicant, having been promoted/appointed to the post of Electrician (Gr.II/III) w.e.f. 1.3.93 on ad-hoc basis and perhaps who did not have the competency certificate, the procedure for which has been explained in paragraph 13 of the reply of the respondents, did not get promoted to the said grade together with Shri Tudu. He accordingly got promoted to the said grade only latter. According to the respondents, therefore, the applicant could not have claimed precedence over Shri Tudu who is senior to him by virtue of his having been promoted to the said grade earlier than the applicant. On Md.Sami having been promoted to the post of Electrician (Gr.I), the respondents have clarified that the said promotion was given to him only on ad-hoc basis in consequence of

de-reservation of ST vacancy.

5. The respondents have pointed out that the applicant has not made Shri Tudu a party in this case and as such he has not been given a chance to make a representation/application before the Hon'ble Tribunal.

6. On closer examination of the facts as submitted by both the parties it is thus observed that the applicant has claimed seniority over Shri Tudu. However, the case of the two are not comparable, as Shri Tudu is a direct recruit, whereas the applicant is a departmental candidate. The applicant has not been able to convince us as to whether he, as a departmental candidate, should have been assigned higher seniority in the grade of Electrician (Gr.II/III) as per the quota meant for different methods of recruitment. In the absence of any definite information in this regard either in his OA or in the reply submitted by the respondents, we are left with only one relevant information in this regard and that is the date of appointment of the two to the post of Electrician (Gr.II/III). The fact that Shri Tudu was appointed to the post of Electrician (Gr.II/III) earlier on the basis of his having been appointed as a Probationary Tradesman and the probation having been completed satisfactorily after one year, and his having obtained a competency certificate, he was appointed to the grade on regular basis w.e.f. an earlier date i.e. 24.2.93, cannot be lost sight of. It is also evident both from the submissions made by the applicant and also by the respondents that the applicant was appointed to the grade only on 1.3.93 and that too on ad-hoc basis. It is also quite evident that the seniority list was never challenged by the applicant when it had been initially published and in the process the seniority list became final. Under the rules the seniority list cannot be re-opened after it acquires finaltiy, after consideration of representations, if any against the seniority list. The applicant thus fails to make out a case in his favour satisfactorily on both counts, namely, in respect of his seniority in terms of his

appointment and also why he did not challenge the seniority list at the appropriate time.

7. Having regard to the above facts and circumstances of the case, we do not find any merit in this OA and therefore it has to fail.

8. Accordingly, this OA stands dismissed. No order as to costs.

MEMBER(A) VICE-CHAIRMAN

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