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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 31.08.2000

O.A. No. 254/1996

Lalit Kumar, aged about 42 years, M.E.S. No.170256
Instrument Repairer C/O GE, Bikaner S/O Sh. Bhanwar Lal,
by caste Bhati, R/O P/47/1 M.E.S. Colony, Sagar Road,
Bikaner.

... Applicant

VS

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The Chief Engineer (Air Force), Jullunder Zone M.E.S., Jullunder.
3. The Command Works Engineer (Air Force), M.E.S., Bikaner Cantt.
4. The Garrison Engineer (Army), Bikaner.

... Respondents

Mr. N.K. Khandelwal, Counsel for the Applicant.

Mr. S.K. Vyas, ~~enters appearance~~ on behalf of the Respondents

CORAM :

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

O_R_D_E_R

(PER HON'BLE MR. GOPAL SINGH)

Applicant, Lalit Kumar has preferred this application under Section 19 of the Administrative Tribunal Act, 1985, praying for setting aside the impugned order dat 28.8.1995 and for a direction to the respondents to promote the applicant to the post of highly skilled Electrician Grade II with effect from 15.10.1984.

Gopal Singh

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2. Applicant's case is that he was appointed as Instrument Repairer with the M.E.S. Garrison Engineer(Army) Bikaner on 17.3.1978. That further avenue of promotion in the case of the applicant was 'Charge Electrician' subject to the condition of qualifying in the trade test. That the Government of India vide its communication dated 15.10.84 introduced three grade structure scheme in respect of Industrial workers working in the M.E.S. and as per this policy, three tier system was introduced for promotion. While introducing this scheme some of the categories were left out for the purpose of promotion, the category of Instrument Repairer being one of them. Feeling aggrieved of this policy, one of the similarly situated Instrument Repairer by name Vijay Singh approached the Tribunal in O.A. No.430/87 decided on 13.7.1993 with a direction to the respondents to open the avenues of promotion for Instrument Repairer. Accordingly, one of the junior to the applicant was promoted with effect from 15.10.84. The applicant was also promoted as Electrician highly skilled Grd.II vide order dated 04.5.'95 at Annexure A/6, and his seniority was fixed between S/Shri Dhanna Ram and Sattar Baig. This fixation of seniority was effective from 15.10.1984 on notional basis. This order dated 04.5.'95 was cancelled vide order dated 28.8.'95 at Annexure A/1, without affording any opportunity to the applicant before cancellation of his promotive order. The applicant represented against the impugned order but to no avail. Feeling aggrieved, the applicant has filed this application.

3. Notices were issued to the respondents and they have contested the application.

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4. We have heard the learned Counsel for the parties and perused the records of the case carefully.

5. This controversy had come up earlier before this Tribunal as mentioned above in O.A. No.430/87 Vijay Singh Vs Union of India & Ors decided on 13.7.1993. We consider it appropriate to extract relevant portion of the order dated 13.7.93 in O.A. No.430/87 as under :



"Having considered the arguments of the learned counsel for the respondents, we are of the opinion that since the applicant had a chance to be promoted to charge Electrician and, therefore, the avenue of promotion to the disadvantage of the applicant cannot be closed by such communications as dated 15.10.84, 4.7.85, 12.12.85 and 10.7.86. Since the applicant came to be promoted as Instrument Repairer and he had every chance of being promoted as a Charge Electrician after passing the trade test and, therefore taking away the avenue of promotion from him, amounts to discrimination. We, therefore, have no other option except to direct the respondents that the case of the application as also other persons placed in his position shall be reconsidered and avenue of promotion would be opened again so that the Instrument Repairer may have the chance to be promoted as Highly Skilled Grade II and Highly Skilled Grade I.. The respondents are directed to give reliefs to the applicant within a period of six months from the date of this order by suitably amending the letters dated 15.10.84, 4.7.85, 12.12.85 and 10.7.86 and the applicant shall be entitled to all consequential benefits as a consequence of the said promotion and from the same date as and when his juniors have been promoted."

6. It would be seen from above order that the respondents therein were directed to give all the consequential benefits to the applicant by suitably amending the letters dated 15.10.84, 4.7.85, 12.12.85 and 10.7.86. Respondents were also directed that the case of the applicant as also other persons placed in his position shall be considered and avenue of promotion would be opened again so that the Instrument Repairer may have the chance to be

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promoted as highly skilled Grd. II and highly skilled Grd.I. Thus, all the similarly situated persons were to be extended the benefit under the above orders of the Tribunal. It has also been seen from respondents' letter dated 16.2.1989(Annex.A/1) that the fitment in the new grades will be effective from 15.10.'84 and the payment of arrears of financial benefit will be made w.e.f. that date namely 15.10.1984. As has been mentioned above, that some of the juniors have already been given the benefit of three grades structure policy with all the benefits, but the applicant has not been extended the same benefit. In the light of above order dated 13.7.'93 in O.A. No.430/87, we are firmly of the view that the applicant and the similarly situated other persons are entitled to the relief as extended to Vijay Singh (applicant in that O.A.). The respondents have also contested the application on the ground of limitation. It has been stated by the respondents that grievance arose in the year 1984, however, this O.A. has been filed in 1996 and, therefore, it is hit by limitation. Secondly, it has been argued by the learned Counsel for the respondents that the applicant cannot be permitted arrears of pay and allowances beyond the limitation period. It has already been pointed out above that some of the similarly situated persons had approached the Tribunal in 1987 vide O.A. No.430/87, decided on 13.7.1993, and it was held therein that the applicant and other similarly situated persons should be extended the same benefit that had been extended to Vijay Singh (applicant therein). The Contempt Petition thereof was decided in the year 1994 and thereafter the orders of the Tribunal dated 13.7.1993 were implemented by the respondents. As a matter of fact, the respondents should have extended the benefit to all the similarly situated persons including the applicant. However, they have not done so. Therefore, cause

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arose to the applicant after the year 1994 and he had made representations to the respondents to that effect. Having failed to redress his grievance at the hands of the respondents, the applicant had filed this O.A. in the year 1996. We, therefore, do not find that the O.A. is hit by limitation. In the circumstances, this argument of the respondents is rejected.

7. Accordingly, we pass the order as under :

The Original Application is allowed. Impugned order dated 28.8.1995 at Annexure A/1 is quashed qua the applicant. The applicant would be entitled to promotion to the post of highly skilled Electrician Grade II with effect from 15.10.1984 with all consequential benefits . He will also be entitled to arrears of pay fixation from that date. Respondents are given three months time to comply with this order.

8. Parties are left to bear their own costs.

Gopal Singh

(GOPAL SINGH)
Adm. Member

31/8/2000

(A.K. MEERA)
Judl. Member

J

July
. 19. 2001

R. K.

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Part II and III destroyed
in my presence 9-25-07
under the supervision of
section officer [redacted] as per
order issued in [redacted]

Section officer (Reserv.)