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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

Date of Order : 30.3.2001

ORIGINAL APPLICATION NO. 90/1999.

Jai Pal son of Shri Karna Ram, aged about 43 years, resident of H. No. 1/191, Housing Board Colony, Near Hanuman Mandir, Sriganganagar, at present employed on the post of Carpenter HS-I MES No. 370140 in the office of Garrison Engineer, Lalgarh Jattan, MES, Sriganganagar.

... APPLICANT ..

VERSUS

1. Union of India through Secretary to Government of India, Min. of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, Sriganganagar.
3. Shri Jarnail Singh MES-369454 Carpenter HS-I, Under GE Lalgarh Jattan, Distt. Sriganganagar.

... RESPONDENTS.



Mr. J. K. Kaushik, counsel for the applicant.
Mr. S. K. Vyas, counsel for the respondents Nos. 1&2.
None is present for respondent no. 3.

CORAM

Hon'ble Mr. A. K. MISRA, JUDICIAL MEMBER.
Hon'ble Mr. GOPAL SINGH, ADMINISTRATIVE MEMBER.

ORDER

(per Hon'ble Mr. Gopal Singh)

In this application under section 19 of the Administrative Tribunals Act, 1985, applicant Jai Pal has prayed for a direction to the respondents to consider the promotion of the applicant to the post of Carpenter HS-II in the fitment of Industrial workers Policy at par with his next juniors with all consequential benefits.

Gopal Singh

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2. Applicant's case is that he was initially appointed to the post of Skilled Carpenter on 15.05.1982 in the office of Garrison Engineer(GE) Sriganaganagar under Chief works Engineer (C.W.E.) Sriganaganagar. The applicant had passed the trade test for Carpenter HS-II on 13.08.1987 and he was promoted as such on 19.09.1987. The applicant was further promoted to the post of Carpenter HS-I w.e.f. 17.02.1997. It is alleged by the applicant that one Jarnail Singh who came on transfer to the applicants unit on 17.11.1984 was allowed promotion to HS-II w.e.f. 15.10.1984. It is the contention of the applicant that Shri Jarnail Singh had come ~~through~~ on unilateral transfer from a different seniority unit to the applicant's unit and therefore, he should have been accorded the bottom seniority in the applicants unit. Had Jarnail Singh been accorded bottom seniority, he would not have been given the benefit of Industrial fitment Policy by way of promotion to HS-II w.e.f. 15.10.1984. It is also contended by the applicant that Shri Jarnail Singh was junior to him in his seniority group and further that Shri Jarnail Singh had been promoted to HS-II, the applicant should also be considered for promotion to the post of Carpenter HS-II. In this connection the applicant cited the judgement of Hon'ble the Supreme Court in U.O.I. & Ors Vs. K.B. Rajoria printed as 2000 SCC (L & S 665), in support of his contention.

3. In the counter, it has been stated by the respondents that Shri Jarnail Singh was senior to the applicant and was eligible for consideration under the Fitment

Cupals



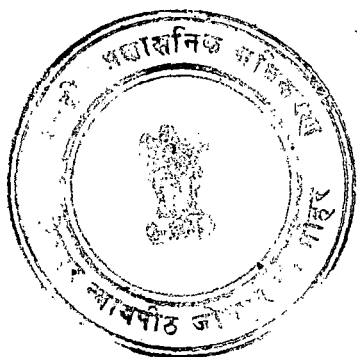
Policy for promotion to HS-II under 15 % examination quota. Shri Jarnail Singh had passed the examination in June 1986 and according to the Fitment Policy was given promotion to HS-II w.e.f. 15.10.1984. It has also been pointed out by the respondent that the applicant was not eligible for consideration for promotion to HS-II grade under the Industrial Fitment Policy. It has therefore, been averred by the respondents that the application ^{is} devoid of any merit and deserves to be dismissed. It has also been pointed out by the respondents that the application ^{is} also barred by limitation and is liable to be dismissed on that count also.

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

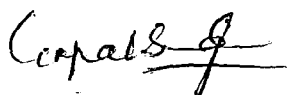
5. It is seen from records that Shri Jarnail Singh was promoted to the post of Carpenter HS-II w.e.f. 15.10.1984 vide respondents letter dated 19.11.1986. This application has been filed on 03.03.1999, almost 13 years after the grievance arose to the applicant. We also do not find any satisfactory explanation from the applicant for reasons for delay in filing this application, thus we are of the view that the application is hopelessly barred by time and can be dismissed on this count alone. On merits the learned counsel for the applicant had cited the Supreme Court Judgement in U.O.I. & Ors Vs. K. B. Rajoria 2000 SCC (L & S 665). In that case the respondent was wrongly superceeded on 22.02.1995 for promotion as additional Director General. The wrong was set right by order dated 10.06.1998 by granting his promotion retrospectively w.e.f. 22.02.1995.


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In January 1999, He was considered for further promotion as Director General. Recruitment Rules provided 2 years regular service as the eligibility condition for promotion as Director General. The respondent did not fulfil this condition if 2 years was reckoned from the date of his actual promotion i.e. 10.06.1998 but he ^{fulfilled} the condition if the period was reckoned from the date of his notional promotion i.e. 22.02.1995. In those circumstances, it was held that regular service did not mean actual service only, eligibility could be determined with reference to a notional promotion granted from retrospective date. Accordingly, the respondent therein was extended the benefit of promotion to the post of Director General. The case in hand is distinguishable on facts and therefore, we are of the view that the judgement cited by the learned counsel for the applicant does not come to ^{the} rescue of the applicant. As has been pointed out above, the application is barred by limitation also. In the circumstances, the O.A. is liable to be dismissed.



6. The O.A. is accordingly dismissed with no order as to costs.


(GOPAL SINGH)
Admn. Member


30/3/2001
(A. K. MISRA)
Judl. Member

Joshi

R/copy
on 10/14
G. B. J.

Henry
Suyas
10/14/20

Part II and III destroyed
in my presence on 26-3-02
under the supervision of
section officer (J) as per
order dated 28-1-22 D 2

Section officer (Record)