

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of Order : 04/10/2002

O.A. No. 4/2001.

1. Madan Lal s/o Shri Ramchandra aged 41 years, Electrician SK.
2. Khushi Mohd. s/o Shri Ismail Khan aged 42 years, Electrician HS I
3. Radhey Kishan s/o Shri Hari Singh aged 42 years, Electrician SK.
4. Rajesh Kumar s/o Shri Madan Mohan aged 38 years, Electrician HS II

all are working in the office of Garrison Engineer, Sriganganagar, residents of MES Colony, Sriganganagar.

... APPLICANTS.

versus

1. Union of India through the Secretary to the Government, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commandar works Engineer, MES, Sriganganagar.

... RESPONDENTS.

Mr. Vijay Mehta, counsel for the applicants.
Mr. S. K. Vyas, counsel for the respondents.

CCRAM

Hon'ble Mr. Gopal Singh, Administrative Member.
Hon'ble Mr. J. K. Kaushik, Judicial Member.

: O R D E R :
(per Hon'ble Mr. J. K. Kaushik)

Applicants have filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 for seeking a direction to the respondents to hold the trade test in compliance of Annexure A-1 and to give promotion as per Annexure A-2 and also extend them all

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the consequential benefits. The facts of the case as narrated by the applicants in OA are that the applicants were initially appointed as Switch Board Attendant (known as SBA) in the year 1981 at Sri Ganganagar. This post has been redesignated as Electrician. At present applicant No. 1 and 3 are holding the post of Electrician SK. The other applicants No. 2 and 4 are holding the post of Electrician HS-I and HS-II respectively. Applicant No. 1 and 2 have also got the benefit of 12 and 24 years service under ACP scheme. It has been averred that a scheme of fitment of ~~xxx~~ workers was issued vide letter dated 08.04.1986. As per the said scheme 20% of the vacancies as on 15.10.1984 were to be filled on the basis of seniority without trade test and 15% were required to be filled in by giving promotion subject to passing of the trade test within two chances by 30.06.1986. Promotions were to be given w.e.f. 15.10.1984.

2. The further case of the applicants is that the applicants were not called for the trade test and their juniors were called for the trade test and also given the due benefits of promotion. An example has been given of Shri Trivender Singh who was initially appointed as wireman on 23.11.1982 and was made Electrician due to reclassification on 10.12.1983. After repeated representations and requests, respondents issued a letter dated 26.05.00 whereby it has been said that persons named therein were not considered against 20% and 15% w.e.f. 15.10.1984 are to be considered now. The seniority list was accordingly published but no further steps have been taken and even the matter was further represented with clear annotation that they will be constrained to approach the Hon'ble

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Tribunal in case Annexure A-1 is not implemented. The Original Application has been filed primarily on the ground that the action of the respondents has been arbitrary and discriminatory and the respondents are duty bound to implement their own orders by arranging trade test and giving promotions. Hence this OA.

3. Respondents have filed a counter reply to the OA and have submitted that the applicants were redesignated as electricians only on 24.06.1987. Shri Trivender Singh was initially appointed as wireman on 23.11.1982 and was classified as Electrician w.e.f. 12.10.1983 which is the date of his appointment as electrician. Shri Trivender Singh was appointed as Elect HS- II w.e.f. 15.10.1984 against 20% of vacancies as on 15.10.1984, merely on the basis of seniority without obligation to qualify the trade test, as per the Government of India, Ministry of Defence, letter dated 08.04.1986 (Annexure A-7). The applicants were not the existing electricians as on 15.10.1984 because they were ~~not~~ redesignated as electricians only on 24.06.1987. Thus Shri Trivender Singh is senior to them in the grade of electrician. The claim of the applicants that they are senior to ~~the~~ Shri Trivender Singh is not justified. As per the rules in force the existing electricians were also to be enblock senior to those who have been redesignated from SBA Wireman, Lineman. Since the applicants are neither senior to Trivender Singh on the post of Electrician nor passed the trade test as required, they cannot get ante date seniority as sought by them. It has also been averred that respondent No. 2 has been endeavouring to find out the possible opportunities if the applicants could be promoted to



Elect HS-II in terms of the letter dated 08.04.1986 (Supra). As per Para 14 of MES standing orders, a minimum period of 3 years has been prescribed for promotion to a higher post in direct line of promotion, while a period of 2 years has been specified to be eligible to appear in the trade test. Since the applicants were redesignated as Elect from SBA w.e.f. 24.06.1987 they were not eligible to appear in the trade test for promotion to Elect HS-II prior to 24.06.1989. They were promoted from subsequent dates as per their seniority.

4. We have heard the learned counsel for the parties and have perused the record of this case.

5. Both the learned counsel for the parties have reiterated the facts and grounds mentioned in the Original Application. As far as the facts of the case are concerned the same are not undisputed. All the applicants have been redesignated as Electrician SK from 24.06. 24.06.1987 whereas Shri Trivender Singh has been reclassified as Electrician from 12.10.1983. In this way Shri Trivender Singh is senior to the applicants in every respect.

6. We are constrained to observe as to on what basis the respondents have issued the letter dated 26.05.2000 (Annexure A-1). This letter does not indicate as to what is the seniority position of the applicants and why the detailed particulars of individuals were called for. The applicants have also not given any particulars regarding their seniority position and regarding the persons junior to them who have been given the benefits of the fitment



policy including their claims or superceding them. Since all the applicants were redesignated as Electrician SK only on 24.06.1987 and in other words they were not Electricians on the cut off date for grant of promotion i.e. 15.10.1984. They have no right whatsoever for claiming any benefits, and this OA is misconceived. The OA is also not sustainable on the ground of limitation. Since the so called junior Shri Trivender Singh was extended the benefit of promotion vide order dated 10.02.1996 and the OA has been filed on 19.12.2000. The repeated representation do not extend the limitation and the OA is hopelessly time barred and deserves dismissal on this count also.

7. In view of the foregoing discussions, we do not find any force in the OA and the same is dismissed on the ground of limitation as well as on merits. No costs.



J. K. Kaushik
(J. K. KAUSHIK)
Judicial Member

Gopal Singh
(GOPAL SINGH)
Adm. Member

Joshi