

**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR.**

Original Application. Nos. 303/2007

Date of order: 4th September, 2008

Hon'ble Mr. D.Sankaran Kutty, Judicial Member.

Hon'ble Mr. Tarsem Lal, Administrative Member.

Gajanand Rathore, S/o Shri Jagannath Rathore, by caste Rathore aged about 54 years, r/o P-130/4 Somnath Lane, Ekling Garh Cant. Area, Udaipur, presently working as JE(E/M) in the Military Engineering Services under the AGE -I Garrison Engineer, Ekling Garh Cant Area, Udaipur.

: applicant.

Rep. By Mr. Manoj Bhandari : counsel for the applicant.

Versus

1. The Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, Government of India, New Delhi.
2. The Engineering -in-chief, Military Engineering Services, Integrated Headquarter of MOD(army)DHQ, PO, New Delhi 11
3. The Chief Engineer, Southern Command, Pune-111 001.
4. The AGE-I (Garrison Engineer) MES Ekling Garh Cant. Area, Udaipur.
5. The Director General (Personnel) Military Engineering Services, Engineering-in-Chief's Branch, Army Hqs, Kashmir House, Rajaji Marg, New Delhi 110 011.
6. Shri Nooruddin Ahmed Qazi, Junior Engineer (E/M), Military Engineering Services, Presently posted at AGE I (Garrison Engineer) Banar, Jodhpur.

: Respondents.

Rep. By Mr. Kuldeep Mathur : Counsel for respondents 1 to 5
None present for R.6.

ORDER.

Per Mr. Tarsem Lal, Administrative Member.

Gajanand Rathore, has filed this O.A No. 303/2007, under Sec. 19 of the Administrative Tribunals Act, 1985, and prayed for the following reliefs:



-2-

8 (I) by an appropriate order or direction, the respondents be directed to modify the seniority list and correct the seniority list dated 08.01.2007 and assigned the seniority to the applicant w.e.f. 4th July 1992 as has been conferred to the respondent No. 6 i.e. Shri Nooruddin Ahmed Qazi with all consequential benefits on the post of Superintendent now re-designated as JE(E/M).

(II) by an appropriate order or direction the respondents be directed to confer seniority to the applicant w.e.f. 4.7.92 as already ordered by the respondents vide order dated 13.10.2000 and to implement the same w.e.f. 04.07.92 and modify the seniority list dated 08.01.2007 and confer seniority to the applicant at par at Sl. No. 914 along with respondent No. 6.

2. The applicant was initially appointed as Motor Pump Attendant on 06.07.1979. Subsequently he passed the Diploma Course in Engineering in the year 1984 and became eligible for appointment on the post of Superintendent E/M II.

3. The respondents invited applications for the post of Superintendent E/M II in the year 1987 and the applicant applied for the same. He was called for the interview on 25.11.1987, but he was not given appointment. He made representation to the respondents on 20.06.1988, and he was informed vide order dated 14.07.1988 (Annex. A/2) that since he was over aged, he could not be considered for appointment. Thereafter he filed OA No. 432/92, before the Jaipur Bench of this Tribunal, which was allowed vide order dated 23.08.97 (Annex. A/3). Thereafter the applicant was given appointment to the post of Superintendent E/M II vide communication dated 25.03.94 (Annex. A/4). The applicant joined the post. After some time, he made another representation on 17.10.1997 (Annex. A/5) to give him seniority from the year 1987 and monetary benefits of the higher post from 1987.

-3-

4. As nothing was done by the respondents, the applicant filed another O.A. No. 66/98 before the Jaipur Bench of this Tribunal. The Jaipur Bench of this Tribunal vide its order dated 28.01.2000, (Annex. A/6) directed the respondents to dispose of the representation within a period of four months by a reasoned and speaking order. The respondents in pursuance of the above order of the Tribunal passed a speaking order on 13.10.2000 (Annex. A/7) stating that the applicant is to be granted seniority notionally with effect from 04.07.92 at par with Shri Nooruddin Ahmed Qazi, who was appointed in a similar post against the vacancy notification dated 03.11.91.

5. The applicant again filed another O.A No. 51/2001, before the Jaipur Bench of this Tribunal praying that he should have been given appointment on the higher post from 1987 and monetary benefits from that date since persons lower in the merit were given appointment from that date. But the said O.A was rejected by the Jaipur Bench vide order dated 17.09.2002 (Annex. A/8).

6. The respondents issued a revised seniority list in the year 2004-05 vide their letter dated 08.01.2007, in which the applicant had been assigned seniority at Sl. No. 982, as his date of appointment had been treated as. 06.04.94, whereas respondent No. 6 had been shown at Sl. No. 914 indicating his date of appointment as 04.07.92. The applicant averred that it is strange that on one hand the respondents have passed an order assigning seniority to the applicant w.e.f. 04.07.92 along with Shri Nooruddin Ahmed Qazi, in pursuance of notification dated 03.11.1991 and on that premise his

-4-

O.A was dismissed as per the statement given by the respondents, but when the seniority list had been issued, he had been shown a junior to respondent No. 6 Mr. Nooruddin Ahmed Qazi who has been assigned seniority from 06.04.94.

7. The applicant submitted a representation cum objection against the said seniority list on 22.02.2007 (Annex. A/9) but the same has not been replied to by the respondents. The applicant had also given a notice for demand of justice dated 14.09.2007 (Annex. A/10) before approaching this Tribunal to grant him seniority w.e.f. 04.07.92, as has been granted to Shri Nooruddin Ahmed Qazi - R.6. The applicant further averred that as per the order passed in the year 2000, the applicant was entitled to be conferred seniority with effect from 04.07.92. But no reply has been given to the said notice. The applicant has been assigned wrong seniority with effect from 06.04.94 on the post of Superintendent, now been re-designated as JE(E/M), whereas he was to be assigned seniority w.e.f. 04.07.92 along with R.6, in pursuance of notification dated 03.11.91. Thus it is a case of gross discrimination being practiced by the respondents, which violative of Art. 14 and 16 of the Constitution of India. Aggrieved by the above, the applicant has filed the present O.A and prayed for the reliefs given in para 1 above.

8. The respondents have filed a brief reply, stating that the relief claimed by the applicant had already been granted vide order dated 14.01.2008, and the same has been addressed to the applicant by E-in-C's Branch, which reads as under:



— 5 —

" The name of the applicant included at AISL No. 914A if JE(E/M) that is below S. No. 914 i.e. MES 184677- Nooruddin Ahmed Quazi, JE (E/M) and the same will be reflected in the new AISL JE (E/M) when issued"

The respondents have therefore pleaded that the relief prayed for by the applicant in the present O.A has already been granted to the applicant and therefore, the present O.A may be dismissed as having become infructuous.

9. The learned counsel for the applicant has also filed rejoinder stating that though he has been conferred seniority at par with Nooruddin ahmed Qazi, he has not been conferred the consequential benefits since Shri Qazi is running in the pay scale of Rs. 5500-9000 and his pay fixation has been done in the said pay scale. Respondent no. 6 has also been conferred the benefit of fixation after completion of 5 years service under the scheme of 5-15, whereas the applicant is working in the pay scale of Rs. 5500-9000 and his pay has been fixed at R. 6950/- and he has not been granted any benefit of fixation under 5-15 years. Thus the applicant has not yet been paid the consequential benefits so granted to R.6 by the respondents and therefore his grievance not been redressed fully. He has therefore prayed that the instant O.A has not become infructuous.

10. Learned counsel for the parties have been heard. They had generally reiterated most of the averments made in their respective pleadings.

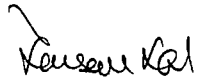
11. We have examined this matter carefully and gone through the documents available in the record. It is noticed that the applicant

A

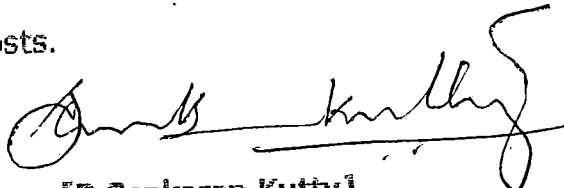
has been assigned seniority at Sl. No. 914 A in the AISL i.e. below R.6 whose name figures at Sl. No. 914. But the applicant has not been paid the consequential benefits.

12. In view of the above discussion, the respondents are directed to re-consider the case of the applicant for grant of consequential benefits to the applicant. They may do so by granting the consequential benefits, notionally from the date that was granted to R.6 and actually from the date the applicant assumed the charge. The other benefits like ACP etc may be conferred as per rules. This may be done within a period of two months from the date of receipt of a copy of this order.

13. The O.A is disposed of as above. No costs.


[Tarsem Lal]
Administrative Member.

Jsv.


[D. Sankaran Kutty]
Judicial Member.

RIC
S-16
9/19/08
for Kullback null

Rly
me
12/19/08

Part II and III destroyed
in my presence on 15/12/14
under the supervision of
section officer (J) as per
order dated 19/8/2014
Section officer (Record)