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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO.202/2009

Date of order: 14.09.2011

CORAM:

HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER

Shri Narpat Singh, MES 169520 S/o Shri Narayan Singh, aged about 48 years, R/o 316, Hanuwant A Sector BJS Colony, Jodhpur. Working as Refrigeration Mechanic Skilled GE Army Utility, Jodhpur.

...Applicant.

Mr. Kamal Dave, counsel for applicant.

VERSUS

1. Union of India, through the Ministry of Defence, Raksha Bhawan, Government of India, New Delhi.
2. Engineering in Chief, Military Engineer Services, Army Head Quarter Kashmir House, New Delhi-110011.
3. Chief Engineer Head Quarter's, Southern Command, Pune-411001.

... Respondents.

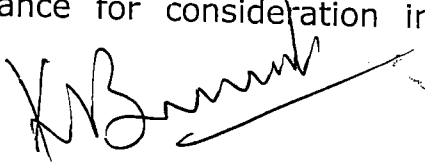
Mr. Kuldeep Mathur, counsel for respondents.

ORDER (ORAL)

(Per Dr. K.B. Suresh, Judicial Member)

We have heard both the learned counsels and perused the pleadings.

2. The applicant would lament that after having been selected for promotion against 20 per cent departmental candidates' quota for the post of Junior Engineer Civil and found place in the draft seniority list of eligible candidates by Annexure-A/5, vide Annexure-A/1 his name was deleted by the respondent No.2. Therefore, pointing out the specific matter in the Recruitment Rules he represented his grievance for consideration in view of his

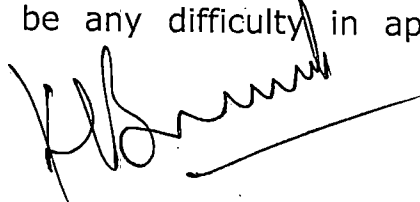


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eligibility but it was not considered and thereupon he had approached this Tribunal.

3. The learned counsel for the respondents submits through recruitment rules, which canvassed two aspects, one is educational qualification and second is an experience. Educational qualification prescribed is a three years' diploma in Civil Engineering, which apparently the applicant has, according to the respondents. But they would say in Column 12 an experience is mentioned, therefore, according to the respondents, this experience must be in that particular wing and since the applicant has been posted in the electrical and mechanical wing, and had had been working as a refrigerator mechanic for all these years, therefore, they did not ~~considered~~ ^{he} him as an eligible candidate for promotion in that particular wing.

4. But the learned counsel for the applicant points out that in that case he would not get any promotion in his life time even though he was a Civil Engineer, and he was posted by the respondents in the electrical/mechanical wing as they had assumed that the basic engineering qualification only ^{may} be required and ^{he} transmigration in all the branches were available, and he had functioned well in all the branches, in which he has worked. He had also pointed out that in column 12 only experience is required, and not experience in a particular grade or particular category, and unless such particular category is specifically mentioned, it cannot be insisted upon, as the practice of the department is to post a person with basic engineering qualification in any of the wings. And ^{he} viewed thus, there cannot be any difficulty in applicant being

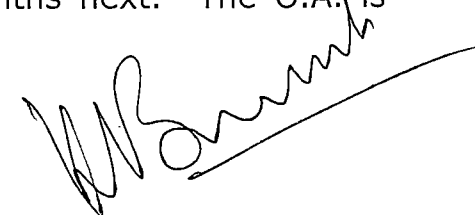


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promoted as Junior Engineer (Civil) also. He further points out that if experience in a particular wing alone is to be considered alongwith the qualification, then since he has qualification of Civil Engineer and experience ^{as} in mechanical engineer, he cannot be a Junior Engineer in mechanical wing or a junior engineer in civil wing, because the qualification and experience are not lying exactly congruent. And this incongruence was because of the specific act of the respondents themselves, and therefore, it has to be presumed that they had considered everything to be equal in terms of the requirement, and thus the Annexure-A/1 order is arbitrary, illegal and opposed ^{to} presumptions of equivalence, which they themselves had drawn. Ru.

5. On cumulative consideration, the irregularities of the respondents' decision can be removed only on the basis that there is equivalence in the two wings on the basis of job requirements and acknowledgement, and therefore, the applicant is to be held as qualified for promotion to the post of Junior Engineer Civil. Therefore, the impugned orders dated 25.06.2009, Annexure-A/1, and dated 27.07.2009, Annexure-A/2, are quashed and the respondents are directed to declare the applicant eligible for consideration against the 20 per cent promotion quota ^{for} under the Ru. departmental employees to the post of Junior Engineer (Civil), and pass consequential order within three months next. The O.A. is allowed. (No order as to costs.)


(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER


(Dr. K.B. SURESH)
JUDICIAL MEMBER