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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 134/2009

Jodhpur this the 8th April, 2013.

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J)
Hon'ble Ms Meenakshi Hooja, Member (A)

Kanshi Ram son of Shri Madu Ram, aged 44 years, FGM, SK in
the office of Garrison Engineer Shri Ganganagar, r/o P-164/2,
MES Coony, District Shri Ganganagar

.....Applicants

(Through Advocate Mr. Vijay Mehta)

Versus

1. Union of India, through the Secretary to the Government,
Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, MES, Shri Ganganager

(Through Advocate Mr Kuldeep Mathur)

..... Respondents

ORDER (Oral)

Per Justice Kailash Chandra Joshi, Member (J)

The applicant by way of this application has prayed for
following relief (s):-

“The applicant prays that the respondents may kindly be directed
to give promotion to the applicant on the post of FGM HS forthwith. In
alternative it is prayed that till the applicant is given promotion, the
respondents may kindly be restrained from arranging trade test on
15.07.2009 or any other adjourned date pursuant of order ANN A 1. ANN
A 1 may kindly be struck down. Any other order, as deemed fit, giving

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relief to the applicant may also be passed. Costs may also be awarded to the applicant.

2. The necessary facts to decide this application are summarized in narrow compass as under :

The applicant is FGM SK and has passed trade test for FGM HS in the year 2001 and was granted benefit of ACP. Though vacancies of the post of FGM HS are lying for some time the applicant has not been granted any promotion though he has passed trade test in the year 2001. Without granting promotion to the applicant the respondent No. 2 issued order dated 02.06.2009 for arranging trade test to the post of FGM HS. The applicant in this application has averred that by way of fresh trade test, respondents are granting promotion to those who either failed to qualify the examination or who did not sit in the trade test alongwith the applicant in the year 2001. As the respondents are depriving his legal right of promotion, therefore, this OA has been filed praying for the relief as narrated in para one.

3. By way of reply the respondents denied the right of the applicant and averred that in view of applicants transfer from on compassionate grounds Bikaner to Ganganager his seniority has been changed and he has been assigned the seniority from the date of taking over charge at Ganganager district, therefore, he is not entitled to any relief.

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4. Counsel for the applicant contended that the Hon'ble Rajasthan High Court in DBCWP No. 8877/2011, Union of India Vs Samander Singh & Ors held that if sole object of conducting the test was to enable the candidate to become eligible for consideration to promotion, then it has to be brought to its logical end within the framework of the scheme, which governs the cases of promotion of the employees so far as such eligible candidates are concerned and he further contended that in para 4.6 of reply it has been admitted that seniority of the applicant in skilled grade stands from 03.09.1991 from the date on which the applicant has taken over charge from office of GE, Ganganagar. In view of the admission made in the above para the counsel for the applicant contended that applicant is entitled to get the relief prayed in the application.

5. Per contra counsel for the respondents reiterated the arguments as averred in the reply.

6. We have considered the rival contentions of both the parties. The applicant has passed the trade test way back and his promotion has been cancelled by the respondents and now the respondents are calling the other persons for the trade test for deciding the eligibility for promotion and they have given promotions to the junior persons to the applicant. Therefore, in our view the action on the part of the respondents is violative of the Article 14 and 16

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of the Constitution of India and the applicant is entitled to get the relief as prayed in the OA.

7. Accordingly the OA is allowed and respondents are directed to give promotion to the applicant to the post of FGM HS forthwith from the date from which his juniors to him were promoted treating his seniority effective from 03.09.1991. There shall be no order as to costs.



(Meenakshi Hooja)
Administrative Member



(Justice K.C. Joshi)
Judicial Member

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