

CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH AT JODHPUR

Jodhpur, this the 27<sup>th</sup> day of January, 2014

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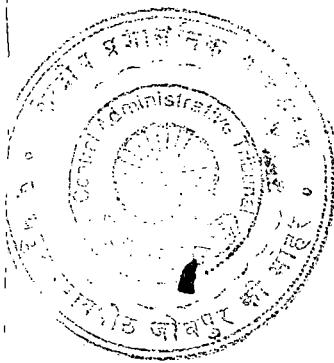
HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, JUDICIAL MEMBER  
HON'BLE MS. MEENAKSHI HOOJA, ADMINISTRATIVE MEMBER

Original Application No.133/2010

1. Dev Raj s/o Shri Manohar Lal, aged about 42 years, at present employed on the post of FGM (SK) in the office of Garrison Engineer (Air Force) MES, at Suratgarh Distt. Sriganganagar.
2. Swaran Singh s/o Shri Darbara Singh, aged about 48 years, at present employed on the post of FGM (SK) in the office of Garrison Engineer (Air Force) MES, at Suratgarh Distt. Sriganganagar.
3. Rajesh Kumar Daba s/o Shri Chanan Ram Dabla, aged about 45 years, at present employed on the post of FGM (SK) in the office of Garrison Engineer (Air Force) MES, at Suratgarh Distt. Sriganganagar.
4. Lal Chand s/o Shri Munshi Ram, aged about 46 years, at present employed on the post of FGM (SK) in the office of Garrison Engineer (Air Force) MES, at Suratgarh Distt. Sriganganagar.
5. Rameshwar Singh s/o Shri Haruja Singh, aged about 44 years, at present employed on the post of FGM (SK) in the office of Garrison Engineer (Air Force) MES, at Suratgarh Distt. Sriganganagar.
6. Hari Ram s/o Shri Shyokaran Ram Beniwal, aged about 47 years, at present employed on the post of FGM (SK) in the office of Garrison Engineer (Air Force) MES, at Suratgarh Distt. Sriganganagar.

Address for correspondence:-

C/o Shri Dev Raj Ward No.42, Near Dispensary, Guru Nanak Basti, Sriganganagar.



.....Applicants

By Advocate : Mr. J.K.Mishra

Vs.

1. Union of India through Secretary to the Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer (Air Force) MES, Bikaner.
3. Garrison Engineer, Air Force, MES, Suratgarh, Distt. Sriganganagar.

...Respondents

By Advocate : Ms. K.Parveen

Original Application No.20/2011



Govind Prakash s/o Shri Dev Raj Maharshi, aged about 49 years, r/o MES Colony, Qtr No.417/2, Suratgarh, at present employed on the post of FGM (SK) in the office of Garrison Engineer (Air Force) MES, at Suratgarh Distt. Sriganganagar.

.....Applicant

By Advocate : Mr. J.K.Mishra

Vs.

1. Union of India through Secretary to the Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer (Air Force) MES, Bikaner.
3. Garrison Engineer, Air Force, MES, Suratgarh, Distt. Sriganganagar.

...Respondents

By Advocate : Ms. K.Parveen

**ORDER (ORAL)**

**Per Justice K.C.Joshi, Member (J)**

Both the OAs are being disposed of by this common order because the issue involved in these OAs is common/identical. For the sake of deciding the controversy, we are taking facts of OA No.133/2010, as a leading case.

2. The applicants were initially appointed as Mate, Mazdoor and Peon etc. As per avenue of promotion for the feeder post of FGM (SK), the next promotional post is FGM (HS). The post of FGM (HS) is to be filled on the basis of seniority cum suitability and suitability is to be adjudged through a trade test to be conducted as and when vacancy arises. The promotions are given to those who pass the trade test and in case one fails in the trade test, the next person in the consideration is subjected to trade test and the same procedure is followed. It therefore, implies that no select panel is prepared in advance for giving promotions. The applicants falling in the zone of consideration in the year 2002 were subjected to trade test for promotion to the post of FGM (HS) against the vacancies which became available at the relevant time. All of them passed the trade test. They were aspiring to get next promotion, but the persons who passed the trade test and happened to be senior were given promotion immediately thereafter and the remaining vacancies were not filled and the applicants were kept waiting for promotion. Thereafter, the respondents in the year 2008 conducted trade test and promoted persons to the post of FGM (HS) against the vacancies for the year 2003 vide letter dated 11.9.2008. The applicants have filed representations raising their grievance, but no relief has been granted by the

respondents, Therefore, the present OA has been filed with following prayers:-

- (i) That the applicants may be permitted to file this joint application on behalf of 6 applicants under rule 4(5) of CAT Procedure Rule 1987.
- (ii) That the respondents may be directed to consider the promotion of the applicants to the post of FGM HS against the vacancies on which they were subjected to trade test and allowed all consequential benefits.
- (iii) That any other direction, or orders may be passed in favour of the applicants which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iv) That the costs of this application may be awarded."

3. By way of filing reply, the respondents have denied the right of the applicants and submitted that the applicants have passed the trade test for FGM (H) vide PTO No.51/2002 dated 23.12.2002 but due to non-availability of existing vacancies in the grade, they could not get promotion at that time. As per availability of vacancies from FGM (SK) to FGM (HS) 30 senior FGM (SK) got promotion to FGM (HS). It has been further stated that seniority list of FGM (SK) for the year 2003 to till date along with nominal roll for promotion from FGM (SK) to FGM (HS) for the year 2003 and vacancy position from 2003 to 2008 (except 2002) is received from HQ CWE (AF) Bikaner vide letter dated 10.7.2010 and all the incumbents who have passed the trade test for FGM (HS) are included in the seniority list but due to shortage of vacancies in the said trade test, they were not given promotion. The promotion panel has been prepared subject to availability of vacancies for giving promotions category wise. The respondents have also submitted that all the applicants stand at seniority list, and as and when vacancies

arise in the trade, they will be considered for promotion. Therefore, action of the respondents is just and proper.

4. Heard both the parties. So far as prayer for filing joint application is concerned (in OA No.133/2010), the applicants are permitted to pursue the OA jointly.

5. Counsel for the applicants contended that the applicants have cleared the trade test in the year 2002 and thereafter they have not been promoted whereas in the year 2008 and 2009, persons junior to them have been allowed to appear in the trade test and after passing the trade test, they have been allowed promotion as FGM (HS). Counsel for the applicants further contended that although in their reply, the counsel for the respondents averred that no junior person have been promoted, but seniority list has been not brought out which has been published by the respondent department, and when the applicants have passed the trade test in the year 2002, without promoting them, the respondents have not explained as to how the next trade test in the year 2008 and 2009 has been conducted by the respondent department.

6. Counsel for the respondents contended that the applicants have not been promoted because they are junior to other persons.

7. Considered rival contentions of the parties and perused the relevant material available on record. The respondents department has failed to produce the seniority list of FGM (SK) or the nominal roll for promotion from FGM (SK) to FGM (HS) in which the applicants are said to have been shown junior. From the documents placed on record, it is clear that the respondents conducted the trade test in 2008 and 2009 also but the applicants have not

been promoted, in spite of the fact that they have passed the trade test in the year 2002.

8. Accordingly, both the OAs are allowed with direction to the respondents to consider the applicants for promotion to the post of FGM (HS) against the vacancies for which they were subjected to trade test in the year 2002 with all consequential benefits. No order as to costs.

*Sd/-*  
[Meenakshi Hooja ]  
Administrative Member

*Sd/-*  
[K.C. Joshi]  
Judicial Member

R/

COMPARED &  
CHECKED

*Ram*

VERIFIED TRUE COPY

Dated: 31.1.2014.....

*J.R. Shroff*

मुख्यमंत्री कार्यालय (न्याय)  
Section Office: (Jud.)  
मुख्यमंत्री कार्यालय  
General Administrative Tribunals  
मुख्यमंत्री कार्यालय  
मुख्यमंत्री कार्यालय

*Keel*  
31.1.14

R/G  
3/2/14