

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

**Original Application No. 290/00051/2014
with
Misc. Application No.290/00234/2014
With
Misc. Application No.290/00316/2014
With
Misc. Application No.290/00399/2014**

Jodhpur, this the 21st day of August, 2015

CORAM

**Hon'ble Ms. Meenakshi Hooja, Administrative Member
Hon'ble Mr. Arvind Jayram Rohee, Judicial Member**

Arun Kumar Jain S/o Shri Mahendra Singh Jain, aged 58 years, presently working as Director, Mines Safety, North Western Zone, Udaipur.

.....Applicant

By Advocate: Mr. J.P. Joshi, Sr. Advocate, assisted by Mr. Sidharth Joshi.

Versus

1. Union of India through Secretary (Labour and Employment) Government of India, New Delhi.
2. Director General, Mines Safety, Directorate General of Mines & Safety Dhanbad (Jharkhand).
3. Union Public Service Commission through its Secretary, Dholpur House, Prithviraj Road, New Delhi.
4. Shri Rakesh Kulshreshtha, Director Mines Safety, Northern Zone, Ghaziabad (UP).

.....Respondents

By Advocate : Mr. K.S. Yadav, present for respondents No.1&2.

None present for respondents No.3&4.

ORDER (Oral)

The present Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 for seeking following reliefs:-

"(a) By an appropriate order or direction the order dated 22.01.2014 (Annexure-A/1) promoting respondent No.4 on the post of Deputy Director General of Mines Safety on officiating basis may kindly be quashed and set aside.

(b) by appropriate order or direction, the respondents may kindly be directed to consider the applicant eligible for promotion to the post of Dy. Director General, Mines Safety and his candidature may be considered by the Departmental Promotional Committee without insisting on five Very good ACRs for last five years.

(c) Further, the respondents may kindly be restrained from promoting any person junior to the applicant in the cadre of Director, Mines Safety while denying promotion to the applicant on the post of Dy. Director General, Mines Safety.

(d) Further the respondents may kindly be directed to accord promotion to the applicant on the post of Dy. Director General, Mines Safety."

2. Vide order dated 07.02.2014, by way of interim relief, the respondent department was directed not to hold the DPC for the post of Deputy Director General, Mines Safety for further 14 days and this has been since continued. In pursuance of the notices issued, the official respondents appeared, filed a reply opposing the OA and also filed Miss. Applications No.234/2014 & 399/2014 for vacation of interim relief.

3. Heard on MAs for vacation of IR. Counsel for the applicant submitted that the respondent department has given promotion on officiating basis to respondent No.4, Shri Rakesh Kulsheshtha as Deputy Director General, North Zone, Ghaziabad, vide order dated 22.01.2014 (Annexure-A/1) and the applicant, who is admittedly, senior to the

post of Deputy Director General, Mines Safety, the applicant may be superseded and deprived of his due promotion. In this regard, counsel for the applicant further submitted that there are no Statutory Rules of the respondent department regarding these promotions and if the respondents act merely upon certain guidelines and administrative instructions, which have no sanctity of law, the applicant may be deprived of his due promotion and prayed for continuation of IR and opposed the vacation of the IR.

4. Per contra, counsel for the respondents No.1 & 2 submitted that the order dated 22.01.2014 (Annexure-A/1) is an order by which the respondent No.4 has been only given the additional charge of the post of Deputy Director General, Mines Safety North Zone and it is not at all promotion or even an officiating appointment, and in fact for this additional charge it has even been ordered that he will not be paid any additional remuneration. Refuting the argument of the counsel for the applicant that there are no Rules, counsel for the respondents No.1 & 2 further submitted that the respondents have already framed the Rules for promotion for various posts including the post of Deputy Director General, Mines Safety and the same has been filed as at Annexure-R/2. The respondent department proposes to hold the DPC for the post of Deputy Director General, Mines Safety according to the prescribed Rules and the apprehension of the applicant has no basis. In view of the IR, the respondent department is not able to hold the DPC and promotions are held up and prayed for the vacation of IR.

simply been given the additional charge of the post of Deputy Director General, Mines Safety, North Zone and therefore it cannot be said that this is an officiating appointment or adhoc promotion. Further the respondent department has submitted in their reply that the rules have been framed for promotion to the post of DDG as at Annexure-R/2 and counsel for the respondents No.1&2 also submitted today that they will hold the DPC in accordance with these rules. The apprehension of the applicant seems to be without any basis. Therefore, there appears to be no justification to continue the IR and accordingly the IR granted on 07.02.2014 and since continued i.e not to hold the DPC for the post of Deputy Director General, Mines Safety, is vacated.

6. In view of the order of vacation of IR, both the learned counsels prayed that the OA may also be disposed of.

7. Accordingly, looking to the entire facts and circumstances of the case, the OA is disposed of with the direction to the respondents No. 1&2 that they may hold the DPC for the post of Deputy Director General, Mines Safety, strictly in accordance with the relevant Rules.

8. The OA is thus disposed of as stated above and the MAs No.316/2014 for early hearing of the OA, and MA No.234/2014 & 399/2014 for vacation of interim order also stand disposed of. No order as to costs.


[Arvind Jayram Rohee]
Judicial Member


[Meenakshi Hooja]
Administrative Member

P-4 का निर्णय का लाभ

प्रा.मा. 1799 दिनांक 07-9-15

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Roz

07-9-15

Recd
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B.C.
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