

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 451/93

Friday, this the 4th day of March, 1994

SHRI N. DHARMADAN, MEMBER (J)
SHRI PV VENKATAKRISHNAN, MEMBER (A)

K. Damodaran, UDC,
D.S.C. Records, Mill Road,
Kannur-13. .. Applicant

By Advocate Shri M.C. Nambiar (Not present)

v/s

1. The Additional Directorate General
of Organisation/Org 8 (I of R),
Adjutant General's Branch,
Army Headquarters, West Block-III,
RK Puram, New Delhi 110 066.
2. The Chief Record Officer,
DSC Records, Mill Road,
Kannur-13.
3. The Deputy Directorate General,
DSC/DSC-2, General Staff Branch,
Army HQs, West Block-III,
RK Puram, New Delhi-66.
4. The Union of India, rep. by
Defency Secretary,
Central Secretariat, New Delhi.
5. K.Purushu,
Office Superintendent Gr. I,
DSC Records, Mill Road,
Kannur-13. .. Respondents

By Advocate Shri Mathew G. Vadakkel, ACGSC. (R. 1-4)

ORDER

N. DHARMADAN - J

Applicant is a member belonging to SC Community. He
seeks seniority over the fifth respondent in the cadre of
Office Superintendent Gr. II. He challenges Annexure-VI
order rejecting his representation filed in this behalf.

2. According to the applicant, he is entitled to promotion to the aforesaid post in preference to fifth respondent. He submitted that considering the length of service in the Department, he is senior and eligible for promotion in preference to the fifth respondent. Applicant joined service as LDC on 6.8.1963, a day before the entry of the fifth respondent. When the 2nd respondent failed to consider earlier representation and take decision in his favour, he filed OA 1634/91. That case was heard and disposed of as per Annexure-III judgment dated 11.11.91 directing the 2nd respondent to consider and pass appropriate orders on Annexure-VI representation dated 7.2.87. In the reply respondents 1 to 4 have stated that the 2nd respondent considered the case of the applicant. According to them 5th respondent was junior to the applicant in the grade of LDC. The status of community to which the applicant belonged was rescheduled from ST to SC and he was promoted as LDC w.e.f. 1.4.77 prior to rescheduling in a vacancy reserved for ST whereas the 5th respondent became UDC w.e.f. 1.11.75. The Department is of the view that any person who was rightly treated as ST candidate and availed of the privileges arising therefrom prior to Act 108/76 should not be deprived of the privileges after rescheduling but he will not be eligible for such privileges after rescheduling and change of caste status. However, he would be eligible for the benefit of SC in his turn. It is made clear in Annexure-R5 order passed on 18.8.92, in which there is a mention that this fact was communicated to the applicant in response to Army HQ Telegram dated 30.12.91 and the office letter dated 29.2.92. It reads as follows:-

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"1. Refer to Army HQ letter No.A/48202/KD/Org 8(I of R)(C) dated 07 Aug 92.

2. As per the judgment of CAT Ernakulam, the representation dated 07 Feb 87 from Shri K Damodaran pending with the department be disposed off in accordance with the law within a period of three months. It is submitted that no such representation is pending with the department as the same has been disposed off and informed the individual accordingly. This fact has again been communicated to Shri K Damodaran, UDC in response to Army HQ telegram dated 30 Dec 91 vide this office letter No. LA Civ/8885154/KD/21 dated 02 Jan 92 (copy enclosed), Central Govt Standing Council has also been apprised about the correct position vide our letter No. LA Civ/8885154/KD/38 dated 29 Feb 92."

The applicant has not pursued the matter any further by making available a copy of the representation before the second respondent so as to enable him to consider the grievance of the applicant in implementation of the direction in Annexure-III judgment. The applicant has challenged the communication dated 15.12.92, Annexure-VI, which reads as follows:-

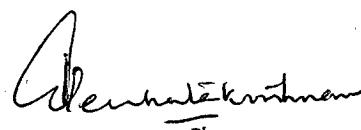
"2. As mentioned vide your letter under reference that Shri K.Damodaran UDC has not brought forward any fresh point warranting re-consideration of the case. However, the same comments have already been forwarded to Central Government Standing Counsel vide your letter No.LA/CIV/8885154/KD/88 dated 29 Feb 92. But it is not understood why such application is forwarded to this Headquarters."

3. On a perusal of the above order, we do not find anything adverse to the applicant. It is the duty of the applicant to file detailed representation to the second respondent as per the earlier direction of the Tribunal, in case Annexure-VI representation referred to in the judgment was not available for consideration. It appears that despite intimation, the applicant failed to make available the representation for a proper consideration.

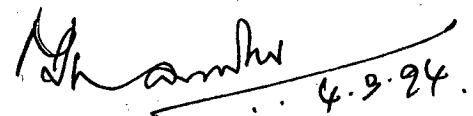
4. Under these circumstances, we are of the view that the applicant has not made out a case for interference at this stage. The O.A. is only to be dismissed. Accordingly, we dismiss the O.A. However, we preserve the right of the

applicant to make available a copy of the representation before the 2nd respondent within a period of one month from the date of receipt of a copy of this order so that he may comply with the directions in the earlier judgment, Annexure-III, without any delay.

5. The application is dismissed. There will be no order as to costs.



(P. V. VENKATAKRISHNAN)
MEMBER (A)


4.3.94.

(N. DHARMADAN)
MEMBER (J)

v/-