

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.58/09

Thursday this the 20th day of January 2011

C O R A M :

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

V.M.Purushothaman,
Record Clerk A/c.No.8332600,
Office of Defence Pension Disbursing Officer,
Hotel Hill Rock, Near College Junction, Pathanamthitta.Applicant

(By Advocate Mr.V.Ajith Narayanan)

V e r s u s

1. Union of India represented by its Secretary,
Ministry of Defence, New Delhi.
2. The Controller General of Defence Accounts,
Office of the Controller General of Defence Accounts,
R.K.Puram, New Delhi.
3. The Controller of Defence Accounts,
618 Annasalai, Thynampet, Chennai.
4. The Defence Pension Disbursing Officer,
Office of the Defence Pension Disbursing Officer,
Hotel Hill Rock, Near College Junction,
Pathanamthitta.Respondents

(By Advocate Mr.Varghese.P.Thomas,ACGSC)

This application having been heard on 20th January 2011 this
Tribunal on the same day delivered the following :-

OR D E R

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The applicant joined the Defence Accounts Department as a Group
'D' employee in the year 1987 after he had put in 16 years of service in the
Army. The next promotion post is that of Record Clerk for which he has to



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pass a departmental examination. He passed the said examination subsequently and he was promoted as Record Clerk in 1995. The next promotion post is that of Clerk for which also he has to pass a written departmental examination. He wrote the departmental examination on 19.1.2004 and as per the result published Annexure A-1 he passed the examination. The marks obtained by the candidates is produced as Annexure A-8. It was his contention that one Sebastian and Balakrishnan, who have secured less marks than him, were promoted on 15.9.2008 but the applicant was promoted only with effect from 1.4.2010 that too during the pendency of the present application.

2. The main prayer in the O.A is to direct the respondents to promote him from the post of Record Clerk to the grade of Clerk with retrospective effect from the date of acquisition of qualification and date of occurrence of vacancy with back wages and other benefits. The first prayer has virtually become infructuous in view of his promotion effected during the pendency of the O.A. Of course, since he is promoted only with effect from 2010 what remain is whether he is entitled to be considered for retrospective promotion as in the case of Balakrishnan and Sebastian.

3. The respondents in their reply affidavit has stated that the promotion is effected not based on the marks obtained in the departmental examination but based on the length of service. Admittedly, going by the length of service the applicant is junior to Balakrishnan and Sebastian. Acquisition of a departmental test qualification is certainly a must for

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promotion but not the basis for promotion. That being the situation, it cannot be stated that the applicant is entitled to be promoted on the same date on which Balakrishnan and Sebastian were promoted merely for the reason that they secure less marks in the examination than the applicant.

4. In this O.A., however, we find that several rejoinders, replies to the rejoinders etc. etc. are filed. Now in the course of the argument learned counsel appearing for the applicant contend that he had filed a M.A.194/10 producing Annexure A-11 and Annexure A-12 documents. It is contended in the MA that one Rajasekhara who is junior to the applicant was promoted with retrospective effect from 15.9.2008 with all consequential benefits as averred in the reply affidavit filed by the respondents in O.A.282/09 filed by Rajasekhara. But the respondent contends that Rajasekhara was promoted as Record Clerk long prior to that of the applicant and thus Rajasekhara was senior to the applicant in the grade of Record Clerk. This averment, however, is not proved to be wrong by producing any material by the applicant. Further Rajasekhara is not made a party in this application. In such circumstances, we do not find any reason to hold that the applicant will be entitled to be promoted as on the date on which Rajasekhara was promoted for the reasons as stated above.

5. Lastly, it is contended that 16 years of service put in by him in the Army should be treated as equivalent and Government Orders are there in this regard. If this qualification is reckoned as SSLC by taking into account his long experience in the Army, according to him, he is likely to have an

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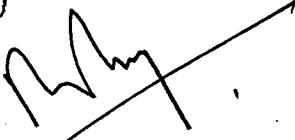
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anterior date of promotion as Clerk as in the case of similarly situated persons who were given promotion with an earlier date based on the better qualification they possess. This is not a plea as such raised in the OA and only raised in the additional rejoinder. Further, the rule contemplate only a reply statement and a rejoinder. If at all, the applicant wanted any relief he ought to have amended the OA which has not been done. However, he has already made a representation to the authorities vide Annexure A-16. All that we could do is to direct the 2nd respondent to dispose of the said representation in accordance with the law.

6. In the result, the only relief the applicant is entitled to is for a direction to dispose of Annexure A-16. Therefore, we direct the 2nd respondent to dispose of Annexure A-16 as expeditiously as possible, at any rate, within a period of six weeks. OA is disposed of accordingly.

(Dated this the 20th day of January 2011)


K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER


JUSTICE P.R.RAMAN
JUDICIAL MEMBER

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