

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.100/2004

This the ~~6th~~ day of February 2006

HON'BLE SHRI A.K. BHATNAGAR, MEMBER (J)

HON'BLE SHRI S.P. ARYA, MEMBER (A)

Bhupendra Singh Gaharwar, aged about 66 years, son of Late Tribhuwan Singh, resident of D-1125, Indira Nagar, Lucknow.

...Applicant.

By Advocate: Applicant In person.

Versus.

1. Union of India, through the Secretary, Ministry of Defence, New Delhi.
2. Engineer-in-chief, Military Engineering Services, E-in-C's Branch, Army Head Quarter, Kashmir House, New Delhi.
3. Chief Engineer, Central Command, Lucknow.
4. Chief Engineer, Lucknow Zone, Command Hospital Road, Lucknow.
5. Garrison Engineer, (MES), Kanpur.

...Respondents.

By Advocate: Shri K.K. Shukla.

ORDER

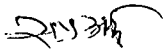
BY HON'BLE SHRI S.P. ARYA, MEMBER (A)

1. Applicant, by this O.A. seeks for his promotion to the post of ASW w.e.f. 31.10.1991 and thereafter promotion to SW and SSW from the date his immediate juniors were promoted with all consequential benefits.
2. We have heard the applicant and the counsel for respondents and perused the pleadings on records.

3. By way of implementation of judgment pronounced by various Benches of Central Administrative Tribunal to consider promotion from SA-I to ASW as per unamended recruitment rules for the individuals who were holding the Degree of Engineering or passed direct final exam from ISI as on 1.10.1993, review DPC was held and promotions were accorded to those who had got Court order and had got the Degree of Engineering or passed direct final exam. The applicant could not be considered and could not be promoted as Assistant Surveyor of Works (ASW) due to lack of requisite qualification. The applicant has filed copy of Part-II of PTO NO.47 of November 1987 showing that he was declared successful on appearing in the direct final examination Sub-Div-II (Building and Quality Surveyors) held in September, 1986. This is issued from the respondents.
4. The C.A. filed by the respondents does not disclose that in the examination the applicant has passed and which is shown in Part-II was not the qualification required for being considered for the post of ASW. It appears the Review D.P.C. was held only in respect of those SA-I who had filed cases in the Court and whose names were ordered to be considered.
5. From perusal of the record, it is clear that the applicant has passed the examination in the year 1987 and accordingly, he was entitled for consideration in the revised D.P.C. for promotion to the post of ASW. The applicant is entitled to be considered for the post of ASW w.e.f. 31.10.1991, the date from which his juniors were promoted and in case, he is

promoted to the post of ASW, he would be entitled to be considered for promotion to the post of SW/SSW. The retirement of the applicant on 31.7.1996 would not come in the way for being considered for promotion.

6. We accordingly direct the respondents to consider the applicant for promotion in Review DPC in view of PTO NO.47 showing to possess requisite qualification and to accord him promotion on approval w.e.f. the date his juniors have been promoted. In case, the applicant is promoted to the post of ASW, he would be entitled to be considered for subsequent promotion as well.
7. With the above directions the O.A. is disposed off with no order as to costs.



(S.P. ARYA)
MEMBER (A)



(A.K. BHATNAGAR)
MEMBER (J)

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