

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

O.A.No. 87/90

Mohd. Hanif

Applicant

versus

Union of India and others

Respondents.

Shri A.K.Chaturvedi

Counsel for Applicant.

Shri V.K. Chaudhari

Counsel for Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C. SRIVASTAVA, V.C.)

By means of this application the applicant has challenged the order of promotion dated 25.11.88 promoting the persons who were junior to the applicant to the higher post and the order dated 14.8.89 through which the rejection order mentioned therein dated 19.9.88 has been communicated to him.

2. The applicant started his service career in the Defence Accounts of the Union of India. He was selected by the Union Public Service Commission for the post of Cost Accountant in the G.S.I. and in pursuance of the selection he joined there on 27.4.84. The next promotional post of Assistant Const Accounts Officer was to be filled by way of promotion on the basis of seniority, subject to rejection of unfit from amongst the cost accountants. According to the applicant, although he was fully eligible but the promotions were

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made through order dated 25.11.99 and the persons junior to the applicant were promoted. Out of the five persons, four were appointed as such from the post of Assistant Cost Accountant and their promotions were regularised and later on regular appointment of the applicant was made through U.P.S.C. on the post of Cost Accountant and in the list these 4 persons have been placed below the applicant. The applicant made representation to the Director General which was rejected and in the it was pointed out that the applicant was not considered for the post by the D.P.C, as he did not have 5 years service on the post of Cost Accountant as on 10.11.88, i.e. on the date when the D.P.C. met. The applicant has, thus challenged his supersession and has approached this Tribunal.

3. The respondents have opposed the claim of the applicant and have pointed out that as per recruitment rules the post of Assistant Cost Accounts Officer were filled 100% by promotion on selection basis and as per existing rules the posts are filled (i) 50% by promotion failing which by transfer on deputation, (ii) 50% by transfer on deputation, failing which by direct recruitment on selection basis and the applicant was not considered by the D.P.C. since he did not complete five years of regular service in the Feeder cadre as required under the new recruitment rules. The applicant has placed reliance on the circular dated 18.2.88 regarding which it has been stated that the same was not

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available in the office of the respondents at the time of holding D.P.C. It has been stated that he was entitled to be promoted with effect from 27.4.89 after completion of five years of service and the D.P.C. met on 30.8.89 and the name of the applicant was considered against the reserved vacancy for the post of Assistant Cost Accounts Officer and a deservation proposal had already been sent to the Ministry for approval. The applicant has claimed promotion on the basis of the said O.M. dated 18.3.88. It has been stated that the applicant had worked as Cost Accountant in the Ordinance Parachute Factory, Kanpur with effect from 1.3.74 to 26.4.84 and he was relieved from there on 26.4.84 for joining in G.S.I. and the entire period was to be counted towards the period that the applicant had completed more than five years of service

4. Vide O.M. dated 18.3.88 all the Ministries/ Departments were advised to insert a note in the Recruitment Rules for various posts to the effect that when juniors who have completed the eligibility period are considered for promotion, their seniors would also be considered for promotion irrespective of whether they have completed the requisite service, provided they have completed the probation period. It was also emphasised that the Ministry/Department to ensure that the seniors are not overlooked for promotion.

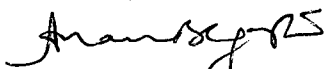
5. A similar matter came up for consideration before the Bangalore Bench of this Tribunal in O.A.

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No. 135 of 1991 'Shri Rajendra Sharma vs. The Director
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G.S.I. Calcutta and/others' and in the said case the
respondents' plea that the D.P.C. proposal was sent
to the Ministry before the issue of O.M. dated 18.3.88
was rejected and the application was allowed and the
respondents were directed to ~~to~~ constitute a review
D.P.C. for assessment of the case of the applicant
alongwith that of his juniors within a period of 3 months
from the date of receipt of copy of the order and
promoted from the date his juniors were promoted.

This application is allowed and the respondents are
directed to convene ^a Review D.P.C. within a period of
3 months. In case the applicant is found fit he may be
given notional promotion with effect from the date his
juniors were promoted and the actual benefits from the
date of actual promotion.

6. With the above observations the application is
disposed of with no orders as to costs.


Adm. Member.


V.C.

Lucknow: Dated ~~28.5.92~~
28.5.92.

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