

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

Reserved on 06.03.2014.

Pronounced on 11th March 2014.

Original Application No.295/2006

Hon'ble Mr. Navnet Kumar, Member (J)

Hon'ble Ms. Jayati Chandra, Member (A)

Pritam Singh, aged about 55 years, S/o Late Sri Bachan Singh resident of III/6 GSI Colony Sector Q Aliganj, Lucknow presently posted as S.T.A (S), Glaciology Division, Geological Survey of India, Northern Region, Lucknow.

-Applicant.

By Advocate: Ms. Babita Awasthi for Sri Praveen Kumar.

Versus.

1. The Union of India, through the Secretary Ministry of Mines, Government of India, Shashtri Nagar, New Delhi.
2. The Director General, Geological Survey of India, 4, Chowringee Lane, Calcutta-16.
3. The Deputy Director General, Geological Survey of India, Northern Region, Sector-E, Aliganj, Lucknow.

-Respondents

By Advocate: Sri S.P. Singh.

ORDER

The applicant has filed this O.A. under Section 19 of Administrative Tribunals Act, seeking the following relief(s):-

“(A) to direct the opposite parties to fix the seniority of the petitioner at the place of Sri M.P. Singh Anand in the seniority list of S.T.A. (S) and to grant all the

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consequential benefits arising out of the fixation of the seniority give the promotion to the petitioner on the post of S.T.A.(S) with effect from 05.12.1988, from when the promotion was granted to Sri M.P. Singh Anand against the post reserved for S.C./S.T.

(B). *to further direct the opposite parties to give the consequential promotion to the petitioner on the post of Officer Surveyor with effect from 01.11.2001, from when the promotion was granted to Sri M.P. Singh Anand.*

(C). *to award the cost of the Original Application."*

2. The facts of the case which are averred by the applicant are that he was appointed on the post of Surveyor (Junior) in the year 1973 against a SC post. He was confirmed in service w.e.f. 1976. He was promoted as Surveyor Senior in June, 1976. The post of Surveyor Senior is now redesignated as Junior Technical Assistant (Survey) (J.T.A (S)). His name was at Serial No. 17 in the Office Order dated 19.2.1980 whereby the total 36 officials including the applicant were confirmed w.e.f. 11.10.1979 (Annexure-4). The applicant got his next promotion to the post of Senior Technical Assistant (Survey) by an order dated 02.01.2003 (Annexure-5). The averments of the applicant is that while he was Senior Assistant (Survey) a reserved vacancy for SC candidate on the post of Senior Technical Assistant (S) arose in the year 1985 but the respondents promoted the general candidate Sri G.S. Bhatnagar against the reserved post for S.C. by subsequent illegal Office Order dated 11.02.1989. The respondents again promoted a general candidate namely Sri M.P. Singh Anand on the post of Senior Technical Assistant (S) against reserved vacancy for S.C. (in the Hindi version it is shown SC while in English version it is ST). The respondent's statement that the promotion of Sri M.P. Singh Anand has been

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held against the reserved ST post after taking permission from Ministry of Mines for de-reservation the post is absolutely illegal. In this way the applicant has been denied the benefit of his promotion twice firstly, when Sri G.S. Bhatnagar was promoted against the reserved post for S.C. by an Office Order dated 11.02.1989 and secondly when the respondents promoted a general candidate namely Sri M.P. Singh Anand on the post of Senior Technical Assistant (S) against reserved vacancy for S.C. It is stated that applicant has been continuously representing with the respondents and obtain copies of various correspondence between the respondents, which demonstrate the illegal action of the respondents. The Respondent No.3 issued a letter dated 17.11.1999 (Annexure-8) to the Deputy Director, National Commission for S.C. and S.T., Aliganj, Lucknow in reply to the applicant's representation dated 20.09.1999 in which it was admitted that Sri G.S. Bhatnagar was promoted to the post of S.T.A. (S) in the year 1985 against a vacancy reserved for S.C., after seeking de-reservation approval. The same letter would also reveals that although the promotional vacancy became available under S.T. category in the Recruitment year 1987 and the applicant, who is senior most in S.C. category was not considered. The applicant finally submitted a detailed representation dated 26.12.2005 after exhausting all opportunities through the Regd. Association etc. with a prayer that Review D.P.C. may be held for the year 1985, 1988 and 1996 and given his revised promotion officer for the post of STA (S) as well as seniority w.e.f. 05.12.1988 i.e. the date of promotion of Sri M.P. Singh

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Anand against the reserved post of S.T. with all consequential benefits thereof.

3. The respondents have contested the claim of the applicant through their Counter Reply in which they have clarified that the first vacancy for promotion to S.T.A. (S) has been occurred after the applicant obtain eligibility in the year 1985. However, as there was one post which come in S.C. point but could not be filed by S.C. candidate as per DOP&T O.M. dated 30.11.1981 "where only one vacancy occurs in the initial recruitment year and the corresponding roster point happens to be for a SC/ST, it should be treated as unreserved and filled accordingly and the reservation carried forward to subsequent years." Hence, Sri G.S. Bhatnagar, was promoted against this vacancy. However, two vacancies unexpectedly occurred in the year 1985, which were to be filled up by unreserved candidates. But, out of these two vacancies one was filed by S.C. candidate Sri Data Ram, who was senior to the applicant was appointed against the reserved point of S.C. In so far as the case of Sri M.P. Singh Anand is concerned, he was promoted on 05.12.1988 against the vacancy reserved for S.T. candidate after obtaining de-reservation form Ministry of Mines. This de-reservation was done after following the guidelines of carrying forward the vacancy for three years. As no ST candidate was available in feeder cadre the de-reservation was effected. It was clarified further that the de-reserved post was that of a S.T. candidate not S.C. candidate. There is a typographical error in Hindi version in promotion order. The applicant had made his representation to the Deputy Director, National

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Commission for S.C. and S.T., Aliganj, Lucknow and the respondents have furnished their reply by the latter dated 17.11.1999 enclosed as (Annexure-CR-1). Further, vacancy of S.T. candidate become available in 1987, which was carry forward only for 2 years i.e. for 1988 & 1996 as there was no recruitment in the year 1989 to 1995 and 1997. The interchanging of the vacancies in SC and ST would have been effected in the year 1998. However, a new post based roster was introduced by the Govt. on 02.07.1997 and the previous roster was closed. No benefits of carrying forward earlier roster of S.T. Roster point had been given to any person. Further, there was a ban on recruitment hence no further promotion could be made.

4. The applicant has filed his Rejoinder Affidavit stating more or less same things as earlier stated by him in his OA has further clarified that the S.T.(S) is a Group 'B' post and the carry forward mechanism does not applied to promotion by selection from Group 'C' to Group 'B' within Group 'B' and form Group 'B' to Group 'A' where carry forward of reservation is not permitted, vacancies can be exchanged between S.Cs. and S.Ts. in the same year of recruitment. Moreover, in the year 1987 total three vacancies were available along with one S.T. quota and the statement of the respondents that there was ban on promotion is the statement is erroneous as there was no ban on promotion.

5. We have heard the learned counsel for both the parties and perused the entire material available on record.

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6. In this case, the applicant has sought seniority at par with Sri M.P. Singh Anand, who was promoted as S.T.A.(S) in the year 1988. In the event of his relief being allowed. Sri M.P. Singh Anand and earlier other are likely to be affected by such order. Hence, it was incumbent upon the applicant that M.P. Singh Anand and others (if any) be arrayed as party/parties in this case. The applicant has arrayed only three respondents in the array of the respondents in the O.A. i.e. (1). The Union of India, through the Secretary Ministry of Mines, Government of India, Shashtri Nagar, New Delhi. (2). The Director General, Geological Survey of India, 4, Chowringee Lane, Calcutta-16 and (3). The Deputy Director General, Geological Survey of India, Northern Region, Sector-E, Aliganj, Lucknow and no other private respondent(s) have been arrayed in the OA as respondents therefore, this OA is liable to be dismissed on the ground of non-joinder of necessary parties.

7. Coming to the merits, the applicant has based his case on the premises that the counting of the roster point pertaining to promotion has been wrongly done by the respondents. He has also challenged the date of occurrence of the vacancy. However, it is essential that the number of year wise vacancy in the post of S.T.A. (S) and the roster point with regard to filling them requires to be indicated. It is pertinent to note that neither of the parties have submitted any specific Rules and Regulations, which could help for deciding the issue with regard to legality and the action taken by the respondents. The papers filed by the applicant are copies

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of various promotions order and copies of his representations. None of these papers establish that the principles of reservation and counting of roster based position have been violated. The applicant is also silent on the question of Shri Datta Ram (S.C.) being awarded a promotion against on S.C. point in the year 1985. Having done that the Respondent No.2 have made some statement with regard to the action taken by them as being justified but beyond submitting an affidavit and copies of representations and there replies, though omitted to produce any Rules and Regulation as well as year wise vacancy position to substantiate their claim.

8. In view of the discussed above, the applicant has failed to establish his case. Therefore, the OA is liable to be dismissed and is accordingly dismissed. No order as to costs.

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(Ms. Jayati Chandra)
Member (A)

Navneet Kumar

(Navneet Kumar)
Member (J)

Amit/-