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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BLDG. NO. 6
PREScot ROAD, BOMBAY-1
CAMP: NAGPUR

OA No. 166/87

Mulchand Dodkuji Akare

..Applicant

V/s.

General Manager

Ordnance Factory, Bhandara & 5 ors. ..Respondents

Coram: Hon. Shri Justice M S Deshpande, V.C.
Hon. Shri M Y Priolkar, Member (A).

APPEARANCE:

Mr. A B Desai
Counsel
for applicant

Mr. R. Darda
Counsel
for the respondents

ORAL JUDGMENT: DATED: 29.7.93
(Per: M S Deshpande, Vice Chairman)

Heard the counsel.

The applicant seeks promotion to the post of Office Superintendent Gr.II or Supervisor A Grade with effect from 26.5.80 with special pay of Rs.35 per month and all other consequential benefits.

The applicant has joined as Orderly on 5.2.1964, was made a Lower Division Clerk in August 1964 and was further promoted as Upper Division Clerk in Dec. 1969. He came to be reverted to the post of LDC on 20.8.77 as a punishment after a disciplinary inquiry. On 30.8.80 his pay was fixed in UDC scale with effect from 7.6.1979. The applicant appealed and in the appeal decided on 6.7.83 his seniority in the cadre of UDC

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was kept in tact. He came to be appointed as UDC again on 9.7.85 & with effect from 1.4.1974 he was declared as substantive and permanent UDC. The applicant's grievance is that he was not promoted to the post of Superintendent Gr.II whereas his juniors came to be promoted. In fact the applicant came to be promoted to that post after the present application was filed on 22.7.87.

The respondents by the written statement pointed out that the applicant became eligible for Superintendent Gr.A w.e.f. 25.7.84 i.e., from the date on which DPC was held and he was found suitable for the post. There was no vacancy in that Grade at that time and he could not be promoted. The applicant was involved in the case of gross misconduct and a chargesheet was issued to him on 24.12.84. In that disciplinary proceedings the applicant was reduced by three stages for a period of one year with effect from 23.6.86 and the period of penalty came to an end on 22.6.1987. The applicant came to be considered in the DPC which met on 5.12.86 and it found him fit for promotion to the post of Office Superintendent Gr. II and he was promoted after the expiry of the penalty period with effect from 22.6.1987.

The applicant has made no mention in the application as to whether promotion to the post of Office Superintendent Gr.II was by selection or by seniority and the learned counsel was not in a position to tell us about the criteria which are applied for



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filling up that post on promotion. On the other hand Shri Darda, learned counsel for the respondents pointed out that the promotion to Office Superintendent Gr.II was by selection. It is clear that the applicant has been considered for the selection and came to be appointed after the period of penalty had come to an end.

The petitioner's grievance that he should have been given the promotion on which his juniors were appointed is without basis because the promotion was not by seniority. In the result there is no merit in the application and is dismissed.


(M.Y. Patolkar)
M(A)


(M.S. Deshpande)
V.C.

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