

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

(5)

BOMBAY BENCH, BOMBAY

OA.NO. 354/88

Shri Pradip Sarkar ... Applicant

V/S.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande  
Hon'ble Member (A) Shri M.Y.Priolkar

Appearance

Applicant in person

Shri V.G.Rege  
Advocate  
for the Respondents

ORAL JUDGEMENT

Dated: 29.4.1993

(PER: M.Y.Priolkar, Member (A))

The applicant was appointed initially on 3.10.1979 as Deputy Chief Engineer in India Security Press and was subsequently on 12.10.1983 promoted on adhoc basis to the post of Chief Engineer. The applicant's grievance is two fold : firstly, although he had been holding the post of Chief Engineer without any interruption from 12.10.1983 and his services were regularised from 25.6.1985 as Chief Engineer, he has not been considered for the higher post of Deputy General Manager. Secondly, another officer, namely, the Works Manager who is made Respondent No. 3 and who, according to the applicant, has inferior qualifications than the applicant as also less service in the same pay scale and in the lower post, has been appointed as Deputy General Manager in preference to the applicant. The prayers in the application are for a declaration that the applicant was regularly working and holding the post of Chief Engineer w.e.f. 12.10.1983 and for quashing and setting aside the order of promotion of the Respondent No. 3 dated 30.5.1987 as Deputy General Manager and promoting the applicant in his place w.e.f. the same date.

2. The applicant who argued in person and has also filed written arguments today, contended that the applicant had already assumed charge as Chief Engineer though on adhoc basis on 12.10.1983 but by subsequent Notification dated 25.6.1985, it is stated that the applicant is appointed to the post of Chief Engineer of India Security Press with effect from the date of assumption of charge and until further orders. The applicant's case is that since he had already assumed charge on 12.10.1983 without any interruption, he was not required to assume the charge of the same office <sup>again</sup> in pursuance of this subsequent notification of 25.6.1985. He argued therefore that his seniority in the post of Chief Engineer should be counted from 12.10.1983 and not from 25.6.1985 as has been done by the respondents. According to respondents, the applicant's appointment as Chief Engineer on 12.10.1983 was only an adhoc arrangement since he did not fulfil the prescribed eligibility condition in the recruitment rules for the post of Chief Engineer. Admittedly, a minimum of 5 years regular service in the post of Deputy Chief Engineer is required for eligibility for consideration for the post of Chief Engineer. According to the applicant, since this adhoc appointment was in a regular vacancy and the applicant has carried out the duties of this post without interruption since then, it was a fit case for relaxation of the condition of 5 years' regular service in his favour or at least the promotion should have been ante dated <sup>to</sup> from 3.10.1984 on which date he had completed the prescribed 5 years' service as Deputy Chief Engineer.

3. We have seen the Notification dated 30.12.1972 regarding recruitment rules to the various Class I & Class II posts in the India Security Press in which the post of Chief Engineer is also included. Para 8 of this Notification deals with powers of relaxation. It states that the Central Government in consultation with the Union Public Service Commission (UPSC) may in certain cases and for reasons to be recorded in writing, relax any of the provisions of these rules in respect of any class or category

of persons. It appears from this provision that any such relaxation could not be done in individual cases but only in respect of a class or category of persons. Further, the respondents have stated in their written reply that a proposal had in fact been sent to UPSC for ante dating the applicant's promotion as Chief Engineer but it was not agreed to by UPSC. The time lag between the date the applicant completed 5 years of regular service as Deputy Chief Engineer and the date on which he was promoted as Chief Engineer was about 8 months. In view of the requirement of obtaining the clearance of the DPC and approval of the UPSC etc., we do not think that this delay of 3 months could be considered as abnormal <sup>or</sup> unreasonable. We do not, therefore, find any merit in the prayer that the applicant's promotion as Chief Engineer on regular basis should be ante dated at least ~~from~~ <sup>to</sup> 3.10.1984. This prayer is, therefore, rejected.

4. Regarding the promotion to the post of Deputy General Manager, it is the contention of the applicant that a Notification was issued on 13.11.1986 that this post will be filled up by transfer on deputation basis, and one of the requirements for eligibility mentioned in the Notification was that the candidate should have 3 years' service in posts in the scale of Rs.1500-1800. The applicant who had applied for the post stated that though he fulfilled the prescribed qualifications, he was informed that his case could not be considered as he did not have 3 years' regular service. The applicant's grievance is that Respondent No. 3 who also did not have 3 years' regular service in the scale of Rs.1500-1800 had, however, been appointed in the post in preference to the applicant though on adhoc basis. We have seen the recruitment rules for the post of Deputy General Manager. As far as promotion is concerned, it is provided in the recruitment rules that only Works Manager in India Security Press with 3 years' <sup>promotion to</sup> regular service would be eligible for the post. The post is to be

filled up by promotion failing which by transfer on deputation and failing which by direct recruitment. For transfer ~~on~~ deputation, it is provided that officers under the Central Government holding analogous posts or officers with 3/5 years' service in posts in the scale of Rs.1500-1800/Rs.1300-1700 or equivalent, respectively, and possessing the qualifications prescribed for direct recruits would be eligible for promotion. For direct recruits, the essential qualification prescribed in Col.7 of the recruitment rules is a degree in Mechanical and/or Electrical Engineering and about 12 years practical experience in supervisory capacity OR a degree in Printing from a recognised University or Diploma in Printing and about 12 years practical experience in a supervisory capacity in printing house. It is clear from these recruitment rules that the applicant was not eligible to be considered for promotion as Deputy General Manager since it was only the Works Manager with the prescribed service who was eligible for promotion. The applicant was also not eligible for transfer on deputation since he did not have the qualification prescribed for direct recruits in Col.7, namely, 12 years practical experience. We do not also find any merit in the applicant's contention that even the Respondent No. 3 was not eligible to be considered for promotion since he did not have regular 3 years service in the lower post. It is to be noted that Respondent No. 3 has been appointed on regular basis as Deputy General Manager only after he completed 3 years service as Works Manager. His earlier promotion was only a stop gap arrangement made by promoting him on adhoc basis, since he was the only person directly in line for promotion under the recruitment rules.

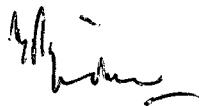
5. The applicant also prayed today that the recruitment rules for the post of Deputy General Manager be held as discriminatory since they provide for promotion of only Works Manager to this post whereas the incumbent of the equivalent post of Chief Engineer

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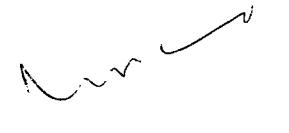
is not eligible for promotion to this post nor to any other higher post. He also stated that in a sister organisation, namely, the Security Paper Mill at Hoshangabad, both the Works Manager and the Chief Engineer with 3 years regular service are made eligible for promotion to the post of Deputy General Manager.

No material is, however, placed before us regarding the functional requirements or the nature of duties and responsibilities attached to these posts in the respective organisations to support this allegation of discrimination. We are not therefore in a position to accept this prayer also of the applicant.

6. This OA. is accordingly dismissed ~~with~~ <sup>as</sup> devoid of merit.  
No order as to costs.

  
(M.Y. PRILKAR)

MEMBER (A)

  
(M.S. DESHPANDE)

VICE CHAIRMAN