

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Tr.Application No.351/86.

Shri.Manek Hormusji Aga
(Legal Heirs-Mrs.Mehroo Manek &
Two others)
813/14, Bhavani Peth,
Pune - 411 002.

... Applicant
(Original Plaintiff)

Vs

1. Union of India through
Secretary to the Central
Government,
Ministry of Defence,
Director of Ordnance Services,
New Delhi - 11.

2. The Chief Officer,
Ordnance Depot,
Talegaon
Dabhade
Dist.Pune.

3. Shri R.P.Behal, P.No.8693

4. Shri Om Prakash Grover, P.No.8700

5. Shri S.Chanda, P.No.17088
(Through Director of Ordnance Services,
M.G.O.S. 8-C,
Army Head Quarters,
Offi P.O.New Delhi-110 011. ... Respondents
(Original Defendants)

Coram: Hon'ble Member (A) J.G.Rajadhyaksha.

Hon'ble Member (J) M.B.Mujumdar.

Appearances:

1. Mr.G.S.Walia
Advocate for the applicant
appointed amicus curie.
2. Mr.M.I.Sethna with Mr.J.Q.Desai
for the respondents.

ORAL JUDGMENT

(Per: M.B.Mujumdar, Member(J))

Date: 15-10-1987

The deceased Shri Manek Hormusji Aga had filed
Regular Civil Suit No.948/85 in the Court of Civil Judge,
Sr.Division, Pune and it is transferred to this Tribunal
under Section 29 of the Administrative Tribunals Act,1985.

2. The deceased applicant was initially appointed
as Supervisor (Stores) in August, 1945. In due course,

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he was promoted on 28-7-72 as Senior StoresKeeper. The next promotion open to him was Stores Superintendent and he was promoted to that post on 1-7-1981. He was not promoted to the next higher post of Sr. Stores Superintendent.

3. The deceased applicant had made two prayers in the plaint. His first prayer was that he should be declared to have been promoted to the post of Stores Superintendent with effect from 20th July, 1977 when his next junior person was promoted. His second prayer was for promoting him as Sr. Stores Superintendent with effect from December, 1983 when his junior was promoted to that post.

4. The deceased applicant had filed this suit on 3rd of June, 1985. After the suit was transferred to this Tribunal, he expired on 2-7-1987 and thereafter his ^{representatives} widow, son and daughter are brought on record as his legal heirs.

5. Unfortunately neither the plaint nor the written statement is happily drafted. Hence for understanding the dispute we had to hear the learned advocates for both the sides as well as Mr. N. G. Rao, Personnel Officer (Civilian). We were also required to go through the relevant record.

6. It was undisputed that the post of Stores Superintendent is a Selection Post. The applicant was promoted as Sr. StoresKeeper on 28-7-72 and according to the rules a Sr. StoresKeeper becomes eligible for promotion as Stores Superintendent after completing three years of service. Accordingly, the applicant became eligible for consideration for promotion in 1975. But as the promotion was on All India basis and as there was a very large number of persons to be considered for promotion, the respondents had to consider certain number of persons only every year from the list of seniority. Accordingly, the applicant was considered for the first time by the DPC held in 1979. In that year his

name was at Sr.No.247 and though he was put in the category of "Very Good", only persons upto Sr.143 could find their names in the panel. The DPC held in June, 1980 placed the applicant in the category of "Very Good" persons and his name was included in the panel on that basis and he was promoted in 1981.

7. It is the case of the applicant that his juniors were promoted in 1977 but this submission is factually incorrect. He has given names of three juniors who were promoted in 1977. They are respondent Nos.3 to 5 in the suit. After considering the proceedings of the DPC held in 1979 we found that they were placed in the category of "Outstanding" persons and they were promoted the next year. They were not promoted in 1977 as alleged by the applicant.

8. We have also seen applicant's and some of his juniors' Annual Confidential Records. We may point out that though the applicant's record was good, the record of his juniors who according to him were promoted earlier than him was better.

9. The law regarding promotions is well established. We cannot sit in appeal against the decision of the DPC. We have not found that the DPC has taken into consideration any irrelevant or extraneous factors and hence we find no force in the say of the applicant that he should have been promoted earlier than in 1981.

10. The second prayer of the applicant is consequential. As already pointed out, in 1983 some of his juniors were promoted to the higher posts of Sr. Stores Superintendent. The applicant has requested that the order by which the promotions were made to that post on 31-12-1983 should be quashed as void and illegal. As this prayer is depending

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on the first prayer we cannot allow this prayer also.

11. In the result, we dismiss the application
(suit) with no order as to costs.

(J.G.RAJADHYAKSHA)
Member(A)

(M.B.MUJUMDAR)
Member(J)