

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 77 OF 2000

FRIDAY, THE 2ND DAY OF MARCH, 2001

SHRI JUSTICE ASHOK AGARWAL.
SMT. SHANTA SHASTRY.

... CHAIRMAN
... MEMBER (A)

Kartik Dutta,
Ambulance Driver-Gr-C,
residing at H 57/5,
Ordnance Estate,
Ambarnath-421 502.

... Applicant

By Advocate Shri S. Natarajan.

vs.

1. Union of India through
The Director General,
Ordnance Factory Board,
10-A, Auckland Road,
Calcutta-700 001.
2. The General Manager,
Ordnance Factory,
Ambarnath-421 502.
3. Ashok Ramji Jadhav,
Ambulance Driver,
Ordnance Factory,
Ambarnath-421 502.

.. Respondents

By Advocate Shri R.K. Shetty.

O R D E R (ORAL)

Shanta Shastry.


... Member (A)

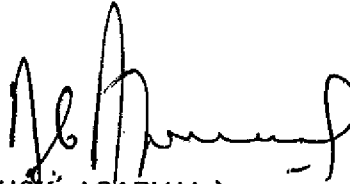
The applicant who was originally appointed as fireman in January, 1983. He was thereafter appointed as Ambulance Driver (Grade II) with effect from 7.3.1988. He was further promoted on 30.11.98 to the senior grade of Ambulance Driver (OG). Thereafter, a show cause notice was issued to the applicant on 6.1.99 informing him that a representation had been made by Shri Ashok R Jadhav, Ambulance Driver (OG) i.e. the 3rd respondent

that he had been selected for the post of Ambulance Driver in 1985 whereas the applicant had been selected in 1988 and therefore, Shri Jadhav becomes senior to the applicant. In fact, the respondent No.3 had been informed vide letter dated 29.9.94 that he got his notional seniority above the applicant. While effecting promotion to the senior grade due to erroneous maintenance of seniority the applicant was promoted, whereas the 3rd respondent was not considered eligible as he had not completed 9 years in the grade of Ambulance Driver as his earlier selection had not been taken into consideration. Since the post is to be filled by seniority cum fitness the respondents asked the applicant to show ^{u/s} ~~case~~ as to why his promotion order should not be cancelled. Thereafter vide letter dated 19.3.99 with a detailed explanation, the respondents cancelled the applicant's promotion on 30.11.93 and reverted him to the post of Ambulance Driver (OG) with immediate effect.

2. It is the contention of the applicant that no doubt the 3rd respondent had been selected in 1985 but as there was a ban on recruitment/appointments the 3rd respondent was ^{not} appointed. This selection could have been ^{valid} ~~held~~ ^{for} ~~at~~ ^{most} ~~only~~ for a specific period, normally for a period of one year, to be extended for further period of six months. The panel cannot ~~last~~ for ever. No action was taken on the selection till 1991 when the 3rd respondent was given actual appointment. In the meantime the applicant was selected duly in 1988 and therefore, the applicant has a right to be senior to 3rd respondent and further, if the 3rd respondent's service is counted from 1991 as on 30.11.98 he

had not completed 9 years of eligible service for promotion to the senior grade. and therefore, the reversion of the applicant by cancelling promotion is not justified. The learned counsel for the respondents also could not justify as to how the selection of 1985 could persist or ^{keep to} ~~get~~ alive ^{till} ~~the~~ 1991 when 3rd respondent was actually ^{appointed by} ~~promoted~~. In our considered view since the applicant was promoted in 1988 he definitely has to be held as senior to 3rd respondent. One cannot act on the select list of 1985 in 1991. We are, therefore, of the view that the applicant is senior and his earlier promotion given on 30.11.98 is valid and his reversion deserves to be set aside. The order reverting the applicant dated 19.3.99 is set aside with consequential benefits. The OA is allowed. No costs


(SHANTA SHASTRY)
MEMBER (A)


(ASHOK AGARWAL)
CHAIRMAN