

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 295/2000

Date of Decision : 5/2/04

S.N.Patil Applicant

Shri S.P.Saxena Advocate for the Applicant.

VERSUS

Union of India & Ors. Respondents

Shri R.R.Shetty Advocate for the Respondents


CORAM :

The Hon'ble Shri A.K.Agarwal, Vice Chairman

The Hon'ble Shri S.G.Deshmukh, Member (J)

- (i) To be referred to the reporter or not ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library

} yes


(A.K.AGARWAL)
VICE CHAIRMAN

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.295/2000

Dated this the 5th day of Feb 2004.

CORAM : Hon'ble Shri A.K.Agarwal, Vice Chairman

Hon'ble Shri S.G.Deshmukh, Member (J)

Sanjeev Narayan Patil,
Additional General Manager,
Ordnance Factory,
Bhandara.

...Applicant

By Advocate Shri S.P.Saxena

vs.

1. Union of India
through the Secretary,
Ministry of Defence,
DHQ P.O. New Delhi.
2. The Chairman,
Ordnance Factory Board,
Ayudh Bhavan,
10-A S.K.Bose Road,
Calcutta.
3. The Secretary,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi.
4. Shri S.D.Dimri,
Addl.General Manager,
Ordnance Factory,
Varangaon.
5. Dr.S.CChakraborty,
Addl.General Manager,
Ordnance Factory,
Bolangir (Orissa).
6. Shri K.P.Panda,
Addl.General Manager,
Ordnance Factory,
Ambajhari.

..2/-

7. Dr. Ram Sanehi,
Addl. General Manager,
Ordnance Factory,
Khamaria (M.P.).
8. Shri Sudhirkumar Beri,
Chief Vigilance Officer,
Hindustan Insecticide Ltd.,
New Delhi.
9. Shri I.N. Dutta,
Addl. General Manager,
Ordnance Factory,
Kanpur. (U.P.).

... Respondents

By Advocate Shri R.R. Shetty

ORDER

{Per : Shri A.K. Agarwal, Vice Chairman}

The applicant Shri Sanjeev Narayan Patil has filed this OA. challenging his placement below Respondents No.4 to 9 in the list of officers promoted to Senior Administrative Grade . The applicant though has been considered fit for promotion by the DPC, the Respondents No. 4 to 9 who were junior to him in the feeding grade have been placed above him in the fit list of Senior Administrative Grade.

2. The facts of the case are as follows. The applicant joined the Indian Ordnance Factory Service on 2.1.1975 on the basis of his selection through Civil Services Examination held by UPSC in 1973. The applicant was promoted as Works Manager w.e.f. 1.8.1979 and Deputy General Manager w.e.f. 31.7.1986. He was further promoted to the post of Joint General Manager w.e.f. 1.10.1991. The name of applicant in the seniority list for Junior Administrative Grade as on 1.1.1999 figures at Sl.No.22.

..3/-

In the list of officers of Senior Administrative Grade, his number is at 197 while six officers who were junior to him in JAG have been placed at Sl.No.172 to 177. The contention of the applicant is that although he has been promoted to SAG, on the first time consideration, but since six junior officers have been placed above him, it is bound to affect his future promotions.

3. The applicant has also contended that according to his information, the DPC had clubbed the vacancies for various years and made a single panel with the result quite a few junior officers who could not have been within the zone of consideration if the panels were prepared yearwise, came into the zone of consideration.

4. The applicant has thus challenged the procedure adopted by DPC as well as not following the principle of inter se seniority amongst the officers found fit for promotion. According to him, as per the guidelines of DOPT all officers who meet the requisite Bench Mark should be placed in accordance with their seniority in the feeder cadre.

5. The learned counsel for the respondents has stated that DPC held under the Chairmanship of Member UPSC has followed correct procedure as well as provisions contained in DOPT O.M. dated 10.4.1989. The DPC considered officers for preparing panel for promotion to SAG on the basis of yearwise vacancies. The vacancies were not clubbed as alleged by the applicant. The record of DPC proceedings were also produced before us and we are satisfied that panels were prepared keeping in view the vacancy position for different years.

6. As far as the second contention of the applicant, for placing the fit candidates as per the seniority in the feeding cadre, is concerned, we find that DOPT O.M. dated 10.4.1989 lays down certain principles for the posts in the level of Rs.3700-5000 of IVth Pay Commission. The relevant part of 6.3.1 (ii) is reproduced below :-

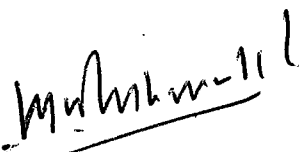
"(ii) In respect of all posts which are in the level of Rs.3,700-5,000 and above, the bench-mark grade should be 'Very Good'. However, officers who are graded as 'Outstanding' would rank en bloc senior to those who are graded as 'Very Good' and placed in the select panel accordingly up to the number of vacancies, officers with same grading maintaining their inter se seniority in the feeder post."

7. It is thus very clear that the officers graded as "Outstanding" will rank en bloc senior to those who are graded as "Very Good" although the Bench Mark for promotion may be "Very Good". The DPC held under the Chairmanship of Member, UPSC has followed this very principle. The learned counsel for the applicant has brought to our notice an amendment made to part 6.3.1. According to these instructions for promotion to Rs.12,000-15,500 (Vth Pay Commission), the DPC will grade officers as fit or unfit only with reference to Bench Mark of "Very Good". Those who are graded as fit shall be included in the select panel in order of their inter se seniority in the feeder grade. If one follows this principle, there will be no change in the inter se seniority of the persons found fit for the higher grade. However, this amendment to the O.M. has been made only on 8.2.2002. The DPC in question was held on 5th and 6th November,1998. At that time, the DPC was obviously guided by the principles laid down by the DOPT O.M. dated 10.4.1989.

8. We are, therefore, convinced that DPC which was held in November, 1998 followed the principles contained in the DOPT O.M. in force at that time. The applicant cannot get the benefit of the amendment which was made in February, 2002. As far as the proceedings of DPC are concerned, the learned counsel for respondents has drawn our attention towards a Supreme Court judgement in AIR 1990 SC 434 - Dalpat Abasaheb Solunke vs. Dr. B.S. Mahajan, wherein it was held that the decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the committee or its procedure vitiating the selection, or proved mala fides affecting the selection etc.

9. In this case, as mentioned above, the DPC has followed the guidelines in force at that time and had prepared the panels accordingly and we do not find any infirmity in the procedure followed and recommendations made by it. The officers who were junior to the applicant in J.A.G. and have been placed above him in S.A.G. were all graded as "Outstanding" by the DPC while the applicant was graded as "Very Good".

10. In view of the facts indicated above, this O.A. deserves to be dismissed and is dismissed accordingly. There will be no order as to costs.


(S.G. DESHMUKH)

MEMBER (J)


(A.K. AGARWAL)

VICE CHAIRMAN

mrj.