

(071)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
(CAMP: NAGPUR)  
-----

Original Application No: 970/92  
-----

Transfer Application No:

DATE OF DECISION: 20.4.95

Vilas J. Dhoble

Petitioner

Ms. S.Wandile,

Advocate for the Petitioners

Versus  
-----

Union of India and others

-----Respondent

Shri R.Darda

Advocate for the Respondent(s)

CORAM :  
-----

The Hon'ble Shri ~~Justice~~ M.S. Deshpande, Vice Chairman

The Hon'ble Shri P.P. Srivastava, Member (A)

1. To be referred to the Reporter or not ?        *m*
2. Whether it needs to be circulated to other Benches of the Tribunal ? *m*

*[Signature]*  
(M.S. Deshpande)  
Vice Chairman

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
CAMP AT NAGPUR  
-----

Original Application No.970/92

Vilas J. Dhoble

... Applicant.

V/s.

Union of India through  
General Manager,  
Ordnance Factory  
Ambazari, Nagpur.

Shri C.P. Gangotri  
General Manager,  
Ambazari, Nagpur.

... Respondents.

CORAM: Hon'ble Shri Justice M.S. Deshpande, Vice Chairman  
Hon'ble Shri P.P. Srivastava, Member (A)

Appearance:

Ms. S.Wandile, counsel  
for the applicant

Shri R.Darda, counsel  
for the respondents.

ORAL JUDGEMENT

Dated: 20.4.95

{ Per Shri M.S. Deshpande, Vice Chairman }


By this application the applicant seeks a proper placement in the seniority list dated 23.8.91 by placing his name in between Shri H.S. Meshram and C.P. Gangotri at serial No. 8 and 9 of the seniority list and on that basis seeks direction to the respondents to consider him for the next promotion of Upper Division Clerk.

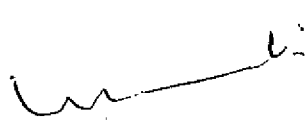
2. The applicant was appointed initially as a Messenger Boy with effect from 11.12.76 and came to be appointed as Lower Division Clerk with effect from 27.6.77. The applicant's contention is that he was kept on probation for a period of 2 years and he has completed two years of probation satisfactorily on 26.6.79. The order placing him on probation had not been produced. The learned counsel for the applicant relied on the seniority

list produced in this case. The entire suspension period spent by the applicant was treated as on duty by the respondents and according to the respondents the applicant was not under disciplinary action at the time of Group 'C' DPC meetings, applicability of sealed cover procedure does not arise.

3. According to the respondent the applicant was promoted as L.D.C and he came to be appointed to that post on 27.6.77. The applicant's case for granting permanency in the grade of L.D.C with effect from 1.4.88 was considered by Group 'C' D.P.C. on 15.3.90 and again with effect from 1.4.89 and 2.2.91. But on both the occasions he was found 'Not fit ' by the Group 'C' D.P.C. The applicant was found suitable for permanency in the grade of L.D.C. with effect from 1.4.90 by Group 'C' D.P.C. and the order granting him permanency dated 25.1.92 (Annexure J) to the application shows that the applicant was made permanent with effect from 1.4.90 and this is confirmed by with the submissions made by the respondents in para 14 of their reply. The respondents also showed the D.P.C. proceedings relating to the applicant and we find that what has been submitted in the reply filed by the respondents holds good according to the proceedings of the D.P.C. Our attention was invited on behalf of respondents to the O.M. issued by the Director General, Ordnance Factories (Annexure II). Rule 2.3 on the subject of seniority of Direct Recruits and Promotees shows that where persons recruited or promoted initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their appointment, seniority shall follow the order of confirmation and not the original order on merit.

4. The learned counsel for the applicant referred to the same rule under clause (ii) promotion, where probation is prescribed, and appointing authority will on completion of the prescribed period of probation assess the work and conduct of the officer himself and in case his conclusion is that the officer is fit to hold the higher grade, he will pass an order declaring that the person concerned has successfully completed the probation. If the appointing authority considers that the work of the officer has not been satisfactory or needs to be watched for some more time, he may revert him to the post or grade from which he was promoted, or extend the probation as the case may be. It is difficult to see how these provisions can be called ~~for~~ <sup>aid</sup> in assistance of applicant, since the order of appointment of the applicant has not been produced. The applicant was selected according to the Rules and he was declared as permanent. as L.D.C. The Rule clearly brings out that the performance of the employee has to be ascertain<sup>ed</sup> and considering that this has been done and the Rules in this respect have been followed, we find that the applicant is not entitled to the placement he seeks. We, therefore, see no merit in the application and we dismiss the same. No order as to costs.

  
(P.P. Srivastava)  
Member (A)

  
(M.S. Deshpande)  
Vice Chairman

NS