

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO.310/94

Dated Thursday, this the 12th Day of October, 2000.

Coram : Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Smt. Shanta Shastry, Member (A).

Shashikant Sampatrao Kamble,
R/at, Sy.No.163, Adarsh Colony,
Tingrenagar,
Pune - 411 032. .. Applicant.

(By Shri Suresh Kumar, Advocate)

Vs.

1. Secretary,
Government of India,
Ministry of Defence,
South Block,
New Delhi - 110 011.
2. Director General of Ordnance
Services,
Master General of Ordnance,
Services,
Master General of Ordnance Br.
Army HQ DHQ PO,
New Delhi - 110 011.
3. Officer Incharge,
Army Ordnance Corps Records,
Post Box No.3,
Trimulgherry Post,
Secunderabad - 500 015.
4. Commandant,
Central AFV Depot,
Kirkee, Pune-411 003. .. Respondents.

(By Shri R.K. Shetty, Advocate)

O R D E R (Oral)
[Shanta Shastry, Member (A)]

The prayer of the applicant is that he should be continued in the rank of Ordnance Officers Civilian (Stores) [for short, OOC(S)] on regular basis with effect from the date of his juniors have been absorbed against regular vacancies and he be awarded all consequential service benefits.

2. The brief facts of the case are that the applicant joined the Department of Army Ordnance Corps on 9.2.1961 as Storeman. The applicant received promotion and went upto the post of Senior Stores Superintendent in the year 1984. Thereafter, he was promoted to the post of OOC(S) till 28.2.1989 or till the regular DPC was held for regular promotions whichever is earlier. This was vide order dated 22.2.1988. The applicant continued in the same promotional post till 31.12.1993. According to the applicant, a DPC meeting was held at the fag end of 1993 and the DPC did not approve the applicant's promotion on regular basis. Finally, the applicant was reverted to his substantive post of Senior Store Supdt. vide orders dated 22.12.1993.

3. It is the contention of the applicant that he worked in the higher post of OOC(S) continuously for a period of 5 years from 1988 to 1993 without any technical break. He received an adverse entry only in 1992 for the year 1991 and five Memos. Otherwise he had discharged his duties satisfactorily. The applicant has appealed against the adverse entry but has not received any reply till the date of the filing of the O.A. The applicant has advanced the following grounds for considering him for regular promotion. According to him, first of all the DPC met to consider him for promotion to the post of OOC(S) in 1993.

Secondly, there was bunching of the vacancies when the DPC met in 1993 enlarging the field of choice of 1988 to 1993 and considering all officers together. Vacancies were not assessed yearwise. Thirdly though the applicant did not have the benchmark of 'Good' ^{he} being from the SC category extra weightage should have been given to him by giving him one higher grade than the grade he had obtained in terms of the Department of Personnel and Training O.M. dated 8.12.1969. Since his representation against the adverse entry has not been replied to even in 1993 when the DPC was held, the said adverse entry should have been ignored and lastly, if he had not received any adverse entry and the grading was average i.e. below the benchmark of 'Good', the same should have been communicated to him as if it were an adverse entry. The applicant has relied on certain judgements of this Tribunal as well as the judgement of the Hon'ble Supreme Court in the case of U.P. ^{Ors vs Prabhat Chandra Jain & Ors 1996(33)ATC 217 (SC) 4} Jal Nigam in the support of his case that any grading which is not adverse but which is below the benchmark prescribed for selection needs to be communicated, else it should be ignored.

4. The respondents in their reply submitted that it is not true that no DPC was held between 1988 to 1993. In fact four DPC meetings were held as follows:-

- (1) on 2.11.1988
- (2) on 13.12.1991

(3) on 21.12.1992 and

(4) on 13.12.1993.

The applicant was considered in each of these DPC meetings but was not found to be coming up to the benchmark and, therefore, he was not selected. Since he was not selected, he could not be promoted against a regular vacancy and, therefore, he could not be continued also against the regular vacancy. Therefore, the applicant had to go back to his substantive post of Senior Store Supdt. The respondents have produced the record relating to the DPC proceedings. It is the contention of the respondents that they have observed the rules as laid down by the DOP&T for such selection and have rightfully not promoted the applicant. As far as the adverse entry is concerned, the learned counsel for the respondents states that the representation of the applicant against the adverse remarks was rejected on 12.3.1994. The respondents have also shown on the basis of the record that there was no bunching of the vacancies. According to the respondents, no extra weightage is to be given if a person has been officiating in a higher post as per instructions of the DOP&T issued on 10.4.1989. The respondents, therefore, maintained that the applicant was not selected by the DPC which met as per the rules.

5. We have heard the learned counsel for both the parties and have perused the relevant record relating to

the selection for the post of OOC(S) and have given careful consideration to the pleadings. We find that the DPC meetings were held on 2.11.1988, 13.12.1991, 21.12.1992 and 13.12.1993 as stated by the respondents. In the first meeting of DPC held on 2.11.1988, the applicant was considered along with the other candidates. The applicant had an overall grading of 'Good' i.e. the benchmark for selection to the post of OOC(S). However, the applicant was not selected. It is seen from the record that there were 4 posts available for the SC employees. On going through the record, we find that there were other SC employees who had either the benchmark of good or a higher grading than that of the applicant and who were also senior to the applicant. We have also checked up that there was no bunching of the vacancies. The selection panel has been prepared yearwise. Though no direct documentary evidence could be produced by the respondents to show that they had taken yearwise vacancies and accordingly the zone of consideration was prepared, the respondents were able to show that had there been any bunching then one SC candidate Shri Brijender Singh Rajan who was junior to the applicant and who had an 'Outstanding' grading would have been placed in the panel for 1990 and not in the panel for 1993. In the later DPC meetings the applicant could secure only an average grading. It is the applicant's grievance that since it was lower than the benchmark, the same should have been

the applicant. In the circumstances, we do not find that there is any infirmity in the orders of the respondents. The DPC meetings have been held in a fair and just manner and the applicant has certainly been considered. He has only a right for being considered and not for promotion. In our view, therefore, the application fails and is accordingly dismissed. No costs.

Shanta Shastry
(Shanta Shastry)

Member (A)

Ashok Agarwal
(Ashok Agarwal)
Chairman.

sns.