

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

OA.NO. 309/94

Friday this the 25th day of June, 1999.

CORAM : Hon'ble Shri Justice K.M.Agarwal, Chairman  
Hon'ble Shri R.K.Ahooja, Member (A)

Ramchandra Ananda Shinde,  
R/o Shinde Cottage,  
Opp. Taru Chawl, Ward No.3,  
Dapodi, Pune.

... Applicant

V/S.

1. Secretary,  
Govt. of India,  
Ministry of Defence,  
South Block, New Delhi.
2. Director General of  
Ordnance Services,  
Master General of Ordnance Br.,  
Army HQ DHQ PO, New Delhi.
3. Officer Incharge,  
Army Ordnance Corps Records,  
Post Box No. 3,  
Trimulgherry Post,  
Secanderabad.
4. Commandant,  
COD Dehu Road,  
Pune.

... Respondents

By Advocate Shri Ravi Shetty  
for Shri R.K.Shetty

O R D E R (ORAL)

(Per: Shri R.K.Ahooja, Member (A))

The applicant had joined as a Storeman  
in the Military Hospital, Deolali on 7.1.1961.  
In the year 1976, he was promoted to the post  
of Senior Store-Keeper (SSK). On 1.9.1980 he  
was further promoted to the post of Stores  
Superintendent (SS) and on 1.3.1984 to a still

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higher post of Senior Store Superintendent (SSS). The applicant states that he was given promotion on adhoc basis to the post of Ordnance Officers Civilian (S) w.e.f. 6.1.1989. Since then he had been working continuously as OOC(S) apart from technical breaks given to him for two days at the end of each calender year. His grievance is that the respondents by their impugned order dated 4.1.1994 reverted him to the post of SSS while regularising the promotion to the rank of OOC of some of his juniors. The applicant claims that his work and conduct had been unblemished and his <sup>promotion</sup> ~~reversion~~ after long and continuous service of nearly 5 years had been washed out by the impugned order of the respondents. He has now come before the Tribunal seeking a direction to the respondents to promote him to the post of OOC(S) on a regular basis w.e.f. 6.1.1989 with all consequential benefits.

2. The respondents in the reply have admitted that the applicant had been working on more or less continuous basis as OOC (S) since 6.1.1989 apart from technical breaks given at the end of each calender year. The learned counsel for the respondents submits that the case of the applicant was duly considered by the Departmental Promotion Committee and since the post of OOC(S) was to be filled on the basis of selection, the applicant did not qualify the bench mark set by the DPC for promotion to the post of OOC(S) as

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his performance was found to be average. The learned counsel for the respondents further submits that the submission of the applicant that he had <sup>an</sup> unblemished record is not right and in support thereof, the respondents have cited certain punishments awarded to the applicant.

3. In the absence of learned counsel for the applicant, we have heard the learned counsel for the respondents and have also gone through the record. We find that the applicant had been awarded the following punishments during his service career as per the reply filed by the respondents :-

" (a) On 28.7.1970, punishment awarded 'Stoppage of increment for two months without recurring effect' by Lt.Col DS Dhillon, Adm. Officer for the offences:-

(i) Absent without proper permission from 15 to 29 Jun 1970.

(ii) Gross disobedience of orders.  
(Authy : CPRO 34/66 & DMD DO-II No.54/70).

(b) On 24.12.70, punishment awarded 'Censured' by Lt.Col. PS Datta, Adm Officer for the offence of being absent without permission from 3.10.70.

(Authy : CPRO 34/66 & DMD DO-II No.87/70).

(c) On 8.3.1971, punishment awarded 'Censured' by Lt.Col. Harpal Singh, Adm Officer for offence of 'Habitual late attendance on 6,11,17,19 & 23 Nov. 1970.

(Authy : CPRO 34/66 & DMD DO-II No.13.9.71)

(d) On 24.12.70, punishment awarded 'Fine of Re.1/- only' by Lt.Col.Harpal Singh, Adm. Officer for offence of 'Carelessness and Negligence'.

(Authy : CPRO 34/66 & DMD DO-II No.24/71)"

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4. As is clear from the above details, all the punishments awarded to the applicant were way back in 1970-71. The last punishment, i.e. for offence of 'Carelessness and Negligence' was by an order dated 24.12.1970. We find that since this last punishment was awarded, the applicant had obtained not one but three further promotions successively in the rank of Senior Store-Keeper in 1976, Stores Superintendent in 1980 and Senior Store Superintendent in 1984. Thus, in effect the adverse nature of the punishments awarded to the applicant had been washed out by subsequent promotions granted to the applicant. It is not clear from the record before us whether the DPC which considered the applicant's case for the promotion to the post of OOC(S) had taken into account these adverse entries while assessing his grading.

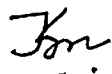
5. We also notice that the applicant had been working in the post of OOC (S) from 1989 onwards for a period of nearly 5 years. In terms of Full Bench judgement of this Tribunal in OA.Nos. 306,307, and 308 of 1990 decided on 29.10.1991 and reported in Full Bench Judgements (CAT) Vol.III page 46, the officers who worked on adhoc basis in higher post have to be given one level higher grading while assessing their suitability for regularisation. We again do not find whether this was done in the case of the applicant.

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6. In view of the fact that the applicant, despite his working for such a long time had not been approved for regularisation, We feel that, in view of the two points mentioned by us, his case ought to be <sup>re-</sup><sup>he</sup> considered. Accordingly, we allow this OA. with a direction that the respondents should convene a review DPC to consider the case of the applicant for regular appointment for the post of DDC(S) with effect from the date his juniors were promoted. This will be done within a period of four months from the date of receipt of this order. No order as to costs.

  
(R.K. AHUJA)

MEMBER (A)

  
(K.M. AGARWAL)

CHAIRMAN

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

C.P. NO.: 48/2000 IN O.A. NO.: 309/94.

Dated this Monday, the 2nd day of April, 2001.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Hon'ble Shri S. L. Jain, Member (J).

Ramchandra Ananda Shinde ... Applicant.

(In person)

VERSUS

Union of India & Others ... Respondents.

(By Advocate Shri R. K. Shetty)

TRIBUNAL'S ORDER :

We have heard the matter brought before us in C.P. No. 48/2000 in O.A. No. 309/94. The original applicant, Shri Ramchandra A. Shinde, appearing in person has also been given liberty to assist us. Shri R. K. Shetty is heard and the statement filed on behalf of Respondents is also perused, especially <sup>relevant</sup> ~~relevant~~ annexures. The Learned Counsel, Shri R. K. Shetty, also produced before us the seniority roll of Senior Store Superintendents of 1992.

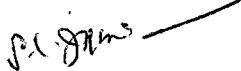
2. The operative part of the order in the O.A. reads as under :

"6. In view of the fact that the Applicant, despite his working for such a long time had not been approved for regularisation, we feel that, in view of the two points mentioned by us, his case ought to be reconsidered. Accordingly, we allow this O.A. with a direction that the respondents should convene a review D.P.C. to consider the case of the applicant for regular appointment for the post of OOC(S) with effect from the date his juniors were promoted. This will be done within a period of four months from the date of receipt of this order. No order as to costs."

*Handwritten signature/initials*

It is, therefore, clear that the official Respondents who were enjoined to consider the case of the Applicant by convening a fresh D.P.C. and provide him with a promotion with effect from the date his juniors were promoted, has been complied with and no contempt can lie. Hence, the Contempt Petition is discharged.

3. In view of the order on Contempt Petition, M.P. No. 111/01 and 214/01 also stands disposed of. No costs.

  
(S.L. JAIN)

MEMBER (J).

  
(B.N. BAHADUR)

MEMBER (A).

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dt 24/4/01  
order/judgement despatched  
to Applicant/Respondent (s)  
on 24/4/01

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