IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 23 and 24/94

Date of Decision: 21.6.99

S.S.Gawli and Anr. — Applicant.

Shri A.I.Bhatkar — Advocate for Applicant.

Versus

Union of India and 12 Ors. — Respondent(s)

Shri V.S.Masurkar — Advocate for Respondent(s)

CORAM:

Hon'ble Shri. Justice K.M.Agarwal, Chairman,

Hon'ble Shri. R.K.Ahooja, Member(A).

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to other Benches of the Tribunal?

(R.K.AHOOJA)
MEMBER(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

1. ORIGINAL APPLICATION NO. 23 of 1994,
2. ORIGINAL APPLICATION NO. 24 of 1994.

Monday, this the 21st day of June, 1999.

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

1. Original Application No. 23/94.

C/o. A.I.Bhatkar,
Advocate, 4/13,
Mohamed Hussain Chawl,
Opp. Antop Hill Post Office,
Wadala,
Bombay - 400 037 ... Applicant.
(By Advocate Shri A.I.Bhatkar)

V/s.

1. Union of India
through the Secretary,
Ministry of Defence,
South Block,
New Delhi. and 12 Ors. ... Respondents.
(By Advocate Shri V.S.Masurkar)

2. Original Application No.24/94.

C.S.Borkar,
C/o. A.I.Bhatkar,
Advocate,
4/13, Mohamed Hussain Chawl,
Opp. Antop Hill Post Office,
Wadala,
Bombay - 400 037. ... Applicant.
(By Advocate Shri A.I.Bhatkar)

V/s.

1. Union of India through the
Secretary,
Ministry of Defence,
South Block,
New Delhi and 14 Ors. ... Respondents.

(By Advocate Shri V.S.Masurkar)

: O R D E R :

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

These two OAs are being disposed of by a common order as the issue is similar in both the cases.

2. The applicants in both the cases are Auto Fitter SK and are seeking promotion to the post of Auto Fitter HSK Gr.II. The counsel for the applicants submits that they have passed the necessary trade test, as well as, written test, but

...2.

they have been superceded by their juniors. The applicants made various representations against their supersession by juniors, but to no avail. They have,therefore, come before this Tribunal seeking a direction to promote the applicants w.e.f. the date their juniors were promoted with all consequential benefits like seniority, arrears etc.

3. The respondents in their reply have stated that as per SRO 303/87 the promotion from Auto Fitter SK to the post of Auto Fitter HSK - II is based on selection basis. The respondents state that the applicants were duly considered by the respective DPC for promotion, but due to low merit they were not selected.

4. It is fairly conceded by the learned counsel for the respondents that the promotional post is a non-selection post. Therefore, the assertion made by the respondents that the post is to be filled up on selection basis is not correct.

5. It is therefore seen that the applicants case for promotion has not been considered on the basis of the criteria i.e. seniority subject to fitness. We, therefore, find merit in both the OAs. The learned counsel for the respondents did not dispute that the applicants were fit for the post, but were not selected because of their low grading. We are of the view, that since they were not found unfit, they are entitled to be promoted by considering them afresh. Accordingly, the OAs are allowed and the respondents are directed to promote the applicants from the dates their juniors were promoted to the said posts with all consequential benefits.

(R.K.AHOOJA)
MEMBER(A)

(K.M.AGARWAL)
CHAIRMAN

B.