

Central Administrative Tribunal
Mumbai Bench

OA No.1007/97

Mumbai, this the 19th day of June, 2002.

Hon'ble Mrs. Shanta Shastry, Member (Admn)
Hon'ble Mr. Shanker Raju, Member (Judl.)

Shri Bhaskar Pralhad Rathod,
R/o P&T Colony, 49,
Upnagar, Nasik-6. -Applicant

(None for applicant)

~VERSUS~

1. Union of India through General Manager, Indian Security Press, Nasik Road, Nasik.
2. Chief Engineer, India Security Press, Nasik Road, Nasik.
3. Shri S.M. Joshi, Senior Electrician, Token No. W-1554 Electric Workshop, India Security Press, Nasik Road, Nasik.

~Respondents

(By Advocate Shri V.S. Masurkar)

ORDER (CORAL)

Mr. Shanker Raju, Member (J):—

None appeared for the applicant when the case was called out. As the matter is old, the same is disposed of in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987. Applicant impugns respondents order dated 3.6.97 as well as 23.6.97, whereby respondent No.3 has assumed charge of Senior Electrician and the request of the applicant was not acceded to and has sought quashing of appointment of R-3 as Senior Electrician and to consider his case for promotion for the aforesaid post.

2. We have perused the pleadings in the OA and heard the learned of the official respondents and respondent No.3 in person.

3. Applicant was appointed as a Mazdoor in Electric Shop on 20.2.90 and was selected as Electrician Grade II and appointed w.e.f. 11.6.92 and was confirmed as Electrician Grade I on 6.11.96. Whereas respondent No.3 is working as Electrician Grade II w.e.f. 23.10.92, as one Barve retired as a Senior Electrician in August, 1996 a vacancy was created to be filled in promotion as required under the rules, which stipulate 50% by promotion and 50% by recruitment, failing which by direct recruitment is to be resorted. The eligibility is diploma in Electric Engineering with one year's experience or S.S.C. with I.T.I. trade certificate in Electronics from the Govt. ITI with five years experience in above stated field. Applicant asserts that he was qualified to be considered against the direct recruitment as well as promotion as having qualified the test in both the graded and had combined experience of four years. It is contended that R-3 who is unqualified and does not fulfill the requirement of combined experience in Grade I and II yet the respondents had sent request for one post of Senior Electrician to the Employment Exchange on 5.9.96 to be filled by direct recruitment. As a consequence candidates were sponsored and an interview was held on 18.12.96. A candidate was selected for the post which was earmarked to be filled up by direct recruitment. It is stated that the respondents should have considered the candidate for promotion after 18.12.96 for the aforesaid post amongst the employees holding the post of Electrician Grade I. Respondent No.3 was considered against the direct recruitment quota and was sent later for interview on 10.1.97, which amounts to arbitrary and discriminatory on the part of the respondents. The representation was rejected on flimsy grounds. It is contended that on 5.9.96 applicant as Electrician Grade I was eligible for promotion

was not considered despite this direct recruitment was resorted to. No DPC was held after 18.12.96, as such no decision has been arrived at by applying failing which clause.

4. Respondents in their reply denied the contentions and stated that the action is in consonance with the recruitment rules. R-3 has been appointed as a direct recruitment quota and is not promoted to the post. Though it is admitted that R-3 is junior to applicant in the grade of Electrician Grade II applicant was promoted as Electrician Grade I w.e.f. 27.8.96 on ad hoc basis and on 6.11.96 on regular basis. This ad hoc period is not counted for the purpose of seniority. A DPC was held on 25.8.95 and at that time the applicant was not qualified to be promoted. As R-3 has fulfilled the eligibility for direct recruitment being B.Sc. with three years experience he was considered for interview meant for direct recruitment and the applicant is estopped from complaining about it. The interview was held by a departmental recruitment committee and the vacancy was correctly earmarked for filling it up by direct recruitment. Promotion cannot be claimed as a matter of right and also cannot be claimed against the direct recruitment quota. As R-3 has fulfilled the requirements of the rules and made application within the time limit he was accordingly considered, applicant having failed to respond was not considered.

5. We have considered the pleadings in the OA and the contentions of the learned counsel for the respondents. In our considered view as the applicant was not eligible the post of Senior Electrician was filled up in accordance with the rules against direct recruitment quota and not by way of

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departmental promotion. As the posts are to be filled up under failing which clause R-3 applied and was interviewed and after considering his eligibility and finding him fulfilling the requirements the departmental recruitment committee recommended his name for the above post and he was accordingly appointed. As the applicant had not applied for the post before the interview had taken place he has no right to claim appointment as Senior Electrician. As he preferred an application after 4 months when the process of recruitment was over, there is no question of his being considered for the above post at the belated stage against the direct recruitment quota.

6. In this view of the matter and for the reasons recorded above no illegality is detected in the action of the respondents. The appointment of R-3 is valid in accordance with the recruitment rules and is legally sustainable. Having failed to establish any *prima facie* case for our interference the OA is found bereft of merit and is accordingly dismissed. No costs.

S. Raju

(Shanker Raju)
Member (J)

Shanta S

(Smt. Shanta Shastry)
Member (A)