

O.A.No.426/93

Dt. of order: 3.5.94

1. S.C.Paliwal : Applicant

Vs.

Union of India & Anr. : Respondents

O.A.No.427/93

2. Sohan Lal : Applicant

Vs.

Union of India & Anr. : Respondents

O.A.No.428/93

3. Gokul Ram : Applicant

Vs.

Union of India & Anr. : Respondents

O.A.No.481/93

4. Lekh-raj Sharma : Applicant

Vs.

Union of India & Anr. : Respondents

Mr.A.C.Upadhyay : Counsel for applicants

Mr.U.D.Sharma : Counsel for respondents

CORAM:

Hon'ble Mr.Gopal Krishna, Member(Judl.)

Hon'ble Mr.O.P.Sharma, Member(Adm.)

PER HON'BLE MR.GOPAL KRISHNA, MEMBER(JUDL.).

Applicants S.C.Paliwal, Sohan Lal, Gokul Ram and Lekhraj Sharma, have filed these applications under Sec.19 of the Administrative Tribunals Act, 1985, praying that the respondents may be directed to treat them as Tindal/Packer/Carpenter/Sarkar in the pay scale Rs.800-1150 and to pay them arrears and consequential benefits w.e.f. 15.3.89. They have also prayed that they may be allowed to perform their duties on the above post pursuant to the order dated 15.3.89 (Annx.A-1).

2. All these applications involve common questions of law and fact and therefore they are being disposed of by a common order.

3. We have heard the learned counsel for the parties and have perused the records.

4. The applicants were promoted on the recommendations of the DPC to the posts Tindal/Packer/Carpenter/Sarkar vide order

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dated 15.3.89 (Ann x.A1). The benefit of the higher post was granted w.e.f. the date the officials assumed the charge of the post. The applicants had joined their duties on the promoted post on the same date i.e. 15.3.89. The applicants were promoted after having been interviewed and after having qualified the written test. However, the order at Annx.A-1 dated 15.3.89 was cancelled vide order dated 7.4.89 (Annx.A2). Thereafter, certain incumbents namely S/Shri Mozi Lal, Ram Gopal and Harinarayan, filed O.A. Nos.395/89, 394/89 and 518/89 respectively, which were disposed of by an order of this Tribunal dated 17.7.92. By this decision, the order at Annx.A-2 dated 7.4.89 was set aside. As a result of this decision dated 17.7.92, S/Shri Mozi Lal, Ram Gopal and Harinarayan were repromoted to a higher scale of pay. But the applicants were not granted promotion in spite of the fact that their names had also figured in the promotion orders contained in Annx.A-1 dated 15.3.89. The learned counsel for the respondents contends that these applicants were not promoted simply because they have not agitated their claims at the relevant time before this Tribunal and the respondents while granting promotion to S/Shri Mozi Lal, Ram Gopal and Harinarayan, had merely implemented the order of this Tribunal dated 17.7.92. The applicants are now aggrieved by the decision of the administration dated 24.12.92 (Annx.A4) since they were not promoted in spite of the recommendations of the DPC for their promotion vide Annx.A.1. The order dated 7.4.89 cancelling the promotion/selection issued vide office memorandum No.E-2/23/63 dated 15.3.89 and No.E-2/23/64 dated 15.3.89 was set aside by the decision of the Tribunal dated 17.7.92. We are of the view that the applicants in these circumstances also should have been granted promotion to the post of Tindal/Packer/Carpenter/~~Sircar~~ as the case may be, as any discrimination between the incumbents already promoted and these applicants would be unreasonable and unjust.

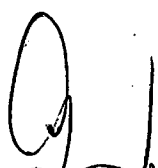
5. Since the applicants are aggrieved by the order dated 24.12.1992 (Annx.A-4), their applications are not held to be barred by limitation.

C/Kishore

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6. In view of the discussions made above, we direct the respondents to promote these applicants to the posts of Tindal/ Packer/Carpenter/~~Silicar~~ as the case may be, with effect from 15.3.1989. However, the actual benefits of pay on the promotion post will be granted to the applicants from a period of one year preceding the dates of presentation of their application. In S.C. Paliwal's case, the O.A. was presented on 15.7.93, therefore he will be entitled to the benefit of pay on promotion post from 16.7.92. In Sohan Lal's case, the application was also presented on the same date and therefore, he will also be entitled to the benefit of pay on promotion post from 16.7.92. Similarly in the case of Gokul Ram, the application was also presented on the same date and therefore, he will also be entitled to the benefit of pay on promotion post from 16.7.92. In the case of Lekh Ram, the O.A. was presented on 12.8.93 and therefore he will be entitled to the benefit of pay of the higher promotion post w.e.f. 13.8.92.

7. The O.As are disposed of accordingly with no order as to costs.


(O.P. Sharma)
Member(A).


(Gopal Krishna)
Member(J).