

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.353/99

Date of order: 10/2/2000

Hoshiyar Singh, S/o Sh.Narain Singh, R/o Bhapur, Post Kajara, Jhunjhunu, presently working as Sub-overseer VII, CEERI, Pilani, Rajasthan.

...Applicant.

VS.

1. The Jt. Secretary(Admn), Council of Scientific & Industrial Research, Anusandhan Bhawan, Rafi Marg, New Delhi.
2. Director, Central Electronics Engineering Research Instt, Pilani (Rajasthan).

...Respondents.

Mr.Hanuman Choudhary - Counsel for the applicant

Mr.K.N.Shrimal - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to quash and set aside the impugned orders dated 21.3.95 (Annx.A10), dated 28.8.95 (Annx.A12), dated 22.2.99 (Annx.A14) and dated 31.5.99 (Annx.A16) and to direct the respondents to allow the placement/promotion to the applicant on the post of Group-III(i) from the date of his joining with all consequential benefits.

2. The applicant was initially appointed as Overseer-II in the scale of Rs.950-1400 and he joined the post on 2.4.88. Later on he passed Bachelor of Engineering Examination in the year 1998 with First Division after taking permission from the department.

3. The case of the applicant in brief is that he was given entry in Group-II(i) in the pay scale of Rs.950-1400 whereas he was entitled for appointment on the post of Group-III(i) in the pay scale of Rs.1400-2300. The applicant submitted so many representations but his request was not considered. He also filed an appeal which was rejected vide order dated 22.2.99. Again the applicant filed an appeal on 6.4.99 challenging the order dated 22.2.99 which was also rejected vide order dated 31.5.99. It is stated that the applicant was entitled for appointment on the post of Group-III(i) in the pay scale of Rs.1400-2300 as he acquired entry level qualification for Group-III(i) post at the time of his initial appointment but he was not considered for the post ignoring the rules given in NRAS/MANAS, therefore, the action of the respondents was ex-facie illegal and the impugned orders at Annxs.A10, A12, A14 and A16 are liable to be quashed. Therefore,

the applicant filed this O.A for the relief as mentioned above.

4. Reply was filed. It is stated in the reply that the appointments are made against the vacant post as per the requirements of the department, so also the appointment of the applicant on the post of Sub-overseer-II was made in pursuance of vacancy for which requisition was sent to the Employment Exchange, Jhunjhunu and the Employment Exchange sponsored the name of the applicant including others for the post of Sub-Overseer II. It is also stated that the applicant himself appeared for the trade test and interview and after selection he was offered appointment on the post of Sub-Overseer and he joined on the post on 12.4.88. It is further stated that if an employee has been appointed in a Group with qualifications higher than the prescribed qualifications pertaining to that Group, after induction in NRAS he will be eligible for assessment promotion grade in the same Group in which he has been recruited, therefore, the applicant has no claim. The applicant joined on 12.4.88 and he was not in position on 1.2.1981, therefore he was not eligible for consideration for movement to next higher Group under the extant guidelines and the applicant is not entitled to placement in Group-III(i) grade and the representations and appeals filed by the applicant were rightly rejected.

5. Heard the learned counsel for the parties and also perused the whole record and also the written submissions filed by the learned counsel for the applicant.

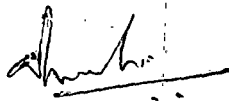
6. It is not disputed that CEERI sent a requisition to fill-up the post of Sub-Overseer (Building) in the pay scale Rs.950-1400 to Employment Exchange, Jhunjhunu, mentioning the qualification, age, etc. for the post and the applicant alongwith others were sponsored by the Employment Exchange, Jhunjhunu for selection. It is also not disputed that the applicant appeared for the trade test and interview and thereafter he was selected. An offer of appointment was also given to the applicant and he voluntarily accepted the same and joined on 12.4.88. No doubt, the applicant has passed three years Diploma Course in Engineering in the year 1984 and thereafter passed B.E Examination in 1998 with First Division but because of the qualifications alone the applicant is not entitled to his placement/appointment on the post of Grade-III(i) in the scale of Rs.1400-2300, as per the extant rules. In the reply, the respondents have categorically made it very clear that the appointments are made against the vacant posts only and a requisition was sent to the Employment Exchange, Jhunjhunu for the vacant post in Group-II Grade. It is also a settled principle that

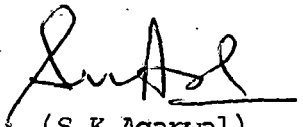
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appointment in Govt departments/public offices can be made against a vacant post after the vacancy is notified as per rules. The instructions contained in MANAS/NRAS also do not support the applicant in any way as the applicant joined on 12.4.88 and he was not in position on 1.2.81, therefore, as per the extant rules, the applicant was not eligible at that time for consideration for movement to the next higher Group. It is also a settled position that if an employee has been appointed in a Group with qualifications higher than the prescribed qualifications pertaining to that group, he will be eligible for assessment promotion in the same Group in which he was recruited and accordingly the applicant has been promoted to the next higher post vide order dated 10.6.97.

7. In view of the foregoing discussions, we are of the considered opinion that the applicant failed to make out any case for quashing the impugned orders at Annxs.A10, A12, A14 and A16 and he is not entitled to any relief sought for.

8. We, therefore, dismiss this O.A with no order as to costs.


(N.P. Nawani)
Member (A).


(S.K. Agarwal)
Member (J).