

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 28.10.2002

OA 215/2002

Pooran Mal, ERA-I (Power) O/o Sr. Section Engineer (Power), W/Rly, Jaipur.

... Applicant

Versus

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.
2. Divisional Rly Manager, W/Rly, Jaipur.
3. Divisional Electrical Engineer (E), O/o DRM, W/Rly, Jaipur.
4. Shri Ghan Shyam, ERA-II (Power) c/o Divisional Electrical Engineer (Estt), O/o DRM, W/Rly, Jaipur.

... Respondents

CORAM:

HON'BLE MR.JUSTICE G.L.GUPTA, VICE CHAIRMAN

HON'BLE MR.GOPAL SINGH, ADM.MEMBER

For the Applicant

... Mr.Hemant Gupta

For the Respondents

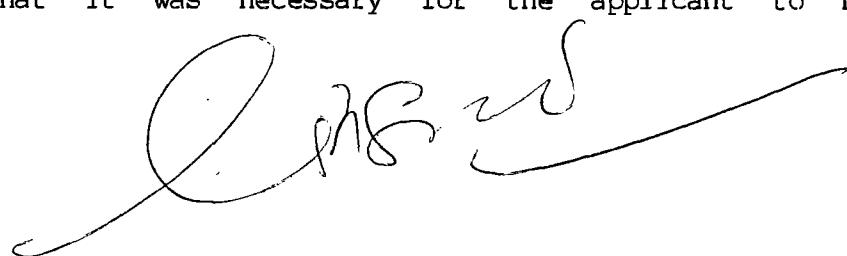
... Mr.R.G.Gupta

O R D E R

PER MR.JUSTICE G.L.GUPTA

Applicant, Pooran Mal, was ERA-II in the Electrical Department in the pay scale of Rs.1200-1800 in the year 1995. It is stated that respondent No.4, Shri Ghan Shyam, was declared surplus from Mechanical Department and was absorbed in the Electrical Department in the year 1996. It is further stated that vide order dated 9.1.2002 (Ann.A/1) respondent No.4 was given seniority over and above the applicant.

2. The case for the applicant is that respondent No.4 could not be given higher seniority when he had come from the other department and the applicant was already working in the Electrical Department.
3. Reply has been filed.
4. It is brought to our notice that vide order dated 9.1.2002 the applicant was given an opportunity to make representation against the proposed seniority, but the applicant did not make any representation and he has approached the Tribunal straightway.
5. The learned counsel for the applicant says that if the Tribunal thinks that it was necessary for the applicant to have made



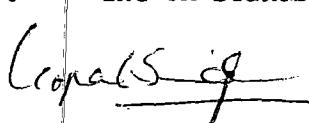
representation to the respondents against the proposed seniority, then the applicant may now be permitted to file a representation and the delay in filing the representation may be condoned. He further says that in view of the decision of Hon'ble the Supreme Court in the case of V.K.Dubey & Ors. v. Union of India & Ors., (1997) 5 SCC 81, respondent No.4, who had come from the other department, cannot get higher seniority.

6. The learned counsel for the respondents contends that the applicant ought to have made representation against the order dated 9.1.2002. In any case, if the Tribunal thinks fit, a suitable direction may be given to the respondents to decide the representation of the applicant, if it is filed within a fixed time limit.

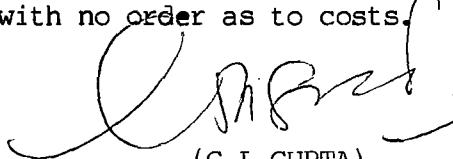
7. Having considered the submissions made by the learned counsel for the parties, we think it a fit case in which the applicant is permitted to make representation against the order dated 9.1.2002.

8. Consequently, the respondents are directed to decide the representation of the applicant against the order dated 9.1.2002 within a period of two months, if the representation is made within two weeks from today. The respondents will not take objection that the representation was not filed within fifteen days of the order dated 9.1.2002.

9. The OA stands disposed of accordingly with no order as to costs.

  
(GOPAL SINGH)

MEMBER (A)

  
(G.L.GUPTA)

VICE CHAIRMAN