

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 09th day of November, 2005

ORIGINAL APPLICATION NO. 252/2003

CORAM:

HON'BLE MR. A.K. AGARWAL, VICE CHAIRMAN (ADMN.)
HON'BLE MR. M.L. CHAUHAN, MEMBER (JUDICIAL)

Nanak Ram Chejara son of Shri Richpal aged about 59 years, resident of B-151, Indira Colony, Shastri Nagar, Jaipur. Presently working as Office Assistant Geological Survey of India, Western Region, Jhalana Doongri, Jaipur.

...Applicant

(By Advocate: Mr. Rajendra Vaish)

Versus

- 1 Union of India through Secretary Mines, Western Region, Government of India, New Delhi.
- 2 Geological Survey of India through Deputy Director General, Jhalana Doongri, Jaipur.

.....Respondents.

(By Advocate: Mr. Tej Prakash Sharma)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- (i) by an appropriate order or direction the respondents may be directed to compute the reservation for physically handicapped persons as per the office Memorandum dated 28.2.1986 (Annexure A/7) and to provide the promotion to the applicant on the reserved post of physically handicapped for Superintendent in the DPC to be convened on 29.5.2003.



- (ii) by an appropriate order or direction the respondents may further be directed to consider the candidature of the applicant for the post from Office Assistant to Superintendent for the DPC to be convened on 29.5.2003 against the quota reserved for physically handicapped persons.
- (iii) Any other appropriate order or direction which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case may kindly also be passed in favour of the applicant.
- (iv) Cost of the applicant be awarded in favour of the applicant.

2. The facts of the case are that the applicant was initially appointed as LDC in respondent's department. During the course of service, he was given further promotion. The grievance of the applicant in this case is that the respondents are going to convene DPC on 29.5.2003 for the post of Superintendent. According to the applicant, since he belonged to Physically Handicapped Category, as such in the light of the Memorandum 28.02.1996 (Annexure A/7), he is entitled to be considered for promotion against the Reserved category of Physically Handicapped. It is on this basis, the applicant has filed this OA.

3. Notice of this application was given to the respondents. The respondents have filed their reply. In the reply, the respondents have specially stated that no DPC was held on 29.5.2003. On merits, the case of the respondents is that the post of Superintendent is a Selection post and reclassified as Group 'B' (Non Gazetted) Ministerial as per copy of the letter dated 22.06.2001 (Annexure R/1). It is further stated that as per Office Memorandum, 20.11.1989, reservation in promotion for physically handicapped persons in post filled by promotion are being made (i) within Group 'D' (ii) from Group 'D' to Group 'C' (iii) within Group 'C'. It is further stated that as per the DOPT Office Memo No. 36035/4/2003-F&H(Res.) dated 08.07.2003, the provision of reservation in promotion to the physically handicapped persons are available when promotions are made within in Group 'D', from Group 'D' to Group 'C' and within Group

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'C' posts. Copy of this Memo is marked as Annexure R/3. Thus according to the respondents, the applicant is not entitled to any relief.

4. We have heard the learned counsel for the parties. The learned counsel for the applicant submits that though in Relief Clause, the applicant has claimed that his case for promotion to the post of Superintendent be considered in the DPC to be convened on 29.5.2003 against the quota reserved for physically handicapped persons but the DPC for the post of Superintendent was held by the respondents subsequently. The learned counsel for the applicant submits that he wants to challenge that order and prays that liberty may be reserved to him to challenge the impugned order by filing substantive OA.

5. Without going into merits of the case, we are of the view that no relief as sought in the Relief Clause of the OA can be granted in the present case. However, it will be open for the applicant to file substantive OA thereby challenging the subsequent action of the respondents and disposal of this OA will not come in his way

6. With these observations, this OA is dismissed of with no order as to costs.



(M.L. CHAUHAN)

MEMBER (J)

AHQ



(A.K. AGARWAL)

VICE CHAIRMAN