

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO. 375/2000

... Susendra Deb ... APPLICANTS
versus.

Union of India & ors ... Respondents.

FOR THE APPLICANT(S) Mr. A. Ahmed
ADVOCATE

FOR THE RESPONDENT(S) C.G.S.C.

Notes of the Registry

DATE

COURT'S ORDER

3.11.2000

Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

Heard Mr. A. Ahmed, learned counsel for the applicant.

Application is admitted. Call for the records. Issue usual notice. Returnable by six weeks.

List on 14.12.00 for written statement and further orders.

[Signature]
Vice-Chairman

Dy. Registrar.

NB
8/11/2000

14.12.00

Present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman
The Hon'ble Mr M.P.Singh, Administrative Member.

Four weeks time is granted to the respondents to file written statement on the prayer of Mr A. Deb Roy, learned Sr. C.G.S.C.

List on 15.1.2001 for order.

[Signature]
Member (A)

[Signature]
Vice-Chairman

Service report are pg
still awaited - NB
13/12/2000

for Ps. 5/1 deposited
vide IFC/B No 503435
Dated 11/11/2000

Request for

2000

Notice prepared and sent to
D/S for issuing the respondent
No 1 to 3 by Regd Post vide
BINO 2769/11 dtd 23/11/00

20/11/00

16.1.01 List on 14.2.01 to enable respondents to file written statement.

Member

Vice-Chairman

lm

14.2.01

Written statement has been filed. The applicant may file rejoinder if any within two weeks. List on 28.2.01 for orders.

Member

Vice-Chairman

lm

28.2.01

Written statement submitted. No rejoinder so far filed. Case is ready. List on 4.5.01 for hearing.

Member

Vice-Chairman

pg

4.5.01

On the prayer of Mr. A. Ahmed, learned counsel for the applicant the case is adjourned to 5.6.2001 for hearing.

Member

Vice-Chairman

bb

5.6.01

On the prayer of Mr. A. Ahmed, learned counsel for the applicant the case is adjourned to 17.7.2001 for hearing.

Member

Vice-Chairman

bb

17.7. There is a reservation.
List again on 30/8/2001.

30.8. There is no distribution in body.
The cases adjourned to
27.9.2001.

30.8

12-1-2000

No. written statement
has been filed by
the respondents.

Notice duly served on
R No. 1, 2 & 3.
Service completed

16/01/01

12.2.2001

x/s has been
submitted by the
respondents.

12/2

W/S has been filed.

26.9.01

17.7

30.8

O.A.375/2000

Notes of the Registry

Date

Order of the Tribunal

27.9.2001

Hearing concluded. The respondents are ordered to produce the letters dated 11.5.83 and 28.5.85 relied ⁱⁿ to the written statement within seven days.

K. C. Sharma
Member

Vice-Chairman

bb
9.10.01

Judgement pronounced in open court, kept in separate sheets. The application is dismissed in terms of the order. No order as to costs.

K. C. Sharma
Member

Vice-Chairman

mb

12.11.2001

Copy of the Judgment has been sent to the office for issuing the same to the applicant as well as to the C.G.S.C. for the Respondent.

all

Notes of the Registry

Date

Order of the Tribunal

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6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 375 of 2000.

Date of Decision.....9-10-2001.

Sri Surendra Deb

-----Petitioner(S)

Sri A.Ahmed

-----Advocate for the
Petitioner(s)

-Versus-

Union of India & Ors.

-----Respondent(s)

Sri A.Deb Roy, Sr.C.G.S.C.

-----Advocate for the
Respondent(s)

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.
THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble : Admn.Member.

K. K. Sharma

7

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 375 of 2000.

Date of Order : This the 9th Day of October, 2001.

The Hon'ble Mr Justice D.N.Chowdhury, Vice-Chairman.

The Hon'ble Mr K.K.Sharma, Administrative Member.

MES 225049 Sri Surendra Deb,
Electrician (SK), Office of the
Garrison Engineer,
P.O. Narengi, Guwahati.

. . . Applicant.

By Advocate Mr A. Ahmed.

- Versus -

1. Union of India,
represented by the Secretary
to the Government of India,
Ministry of Defence,
New Delhi.
2. The Commander Works Engineer,
Air Force, P.O. Guwahati Airport,
Guwahati-781015.
3. The Garrison Engineer,
Narengi, P.O. Satgaon,
Guwahati-781027.

. . . Respondents.

By Advocate Sri A. Deb Roy, Sr.C.G.S.C

O R D E R

K.K.SHARMA, MEMBER (ADMN.)

In this application under Section 19 of the Administrative Tribunals Act 1985 the only relief sought by the applicant is promotion to the post of Electrician HS-II from the date of promotion of his juniors. Mr A.Ahmed, learned counsel for the applicant and Mr A. Deb Roy, learned Sr.C.G.S.C have been heard.

2. The applicant was appointed as Motor Pump Attendant on 28.5.1965 and was promoted to the post of Switch Board Attendant with effect from 29.6.1972. The applicant passed the Trade Test for Electrician in 1978. The post of Switch Board Attendant was redesignated as Electrician (SK) with

K. K. Sharma

contd..2

effect from June 1987. The posts of Electrician HS-II are filled by the feeder grade, namely, Lineman, Switch Board Attendant and Wireman on the basis of seniority cum Trade Test conducted by the Departmental Promotion Committee. The applicant claimed that he became due to promotion to the post of Electrician HS-II with effect from 1978. As he was not promoted to HS-II the applicant approached this Tribunal by filing O.A.448/99. The Tribunal disposed of this application on 3.2.2000 with a direction to the applicant to file a representation before the respondents. The representation filed by the applicant has been rejected by the respondents by letter dated 9.3.2000 (Annexure-D to the O.A) informing the applicant as under :

"
On detail scrutiny and examination of your service records it is seen that you have not yet qualified for the trade test of Electrician HS-II in accordance with recruitment rules as published vide SRO 204 dated 12 Sep 91. As such you are not eligible for promotion to the grade of Electrician (HS-II) as per recruitment rules.
.

This order has been challenged by the applicant. The applicant has stated that his juniors D.C.Roy, H.C.Nurzary and late M.C.Das have been promoted to HS-II though they had not passed the trade test. It is submitted that the applicant's representation has been rejected in a casual manner.

3. The respondents have filed their written statement and have denied that there has been any discrimination in not promoting the applicant to the post of Electrician HS-II. It is stated that the applicant had passed the Trade Test for Electrician and not ^{for} Electrician HS-II. The applicant has ^{been} appointed as Electrician on re-classification of his posts. The applicant's seniority in the grade of Switch Board Attendant will count from the date of his promotion to the

16/1/2000

grade, namely 29.6.1972. The other employees mentioned in the O.A. were appointed directly to the post of Switch Board Attendant. Prior to June 1972 the applicant was appointed to the post of Switch Board Attendant on promotion in 1972. The employees appointed as Switch Board Attendant prior to the applicant were senior to him. It is denied that any junior of the applicant has been promoted. The three grades of Lineman, Switch Board Attendant and Wireman were re-classified as Electrician (SK) and his claim that he had passed the trade test for Electrician HS-II is not correct. It is stated that the other employees named by the applicant were senior to him as will be evident from the following :

| "Sl.No. | Name & designation | Initial app -ointment | seniority on grade. |
|---------|--------------------------|--|------------------------|
| 1. | Sri T.C.Roy, Elect.HS-II | 1.7.65 SBA | 1.7.65 |
| 2. | " H.C.Nurzary -do- | 9.5.67 SBA | 9.5.67 |
| 3. | Late M.C.Das SBA | 1.9.67 SBA | 1.9.67 |
| 4. | Sri Surendra Deb | <u>28.5.65</u> MPA <u>29.6.72</u> SBA | 29.6.72 |

Employees at serial No.1, 2 and 3 were senior to the applicant. They have not been promoted but have been up-graded on seniority basis. None of the juniors of the applicant has superseded him. The applicant has not been denied his legitimate right. The applicant was also informed the decision by order dated 9.3.2000.

4. We have heard the parties at length and have also perused the record. The applicant's claim that he has passed the trade test for Electrician which fact is not disputed. It is stated that for promotion to the post of Electrician HS-II the applicant has to pass the Trade Test ^{he} for Electrician HS-II which/has not done. The applicant has not shown that he has passed the trade test for Electrician

10/11/2000

HS-II. The applicant has also not been able to make out his case that his juniors have been promoted above him. The respondents have denied that any juniors have been promoted. The persons named by the applicant in the O.A. were working as Switch Board Attendant prior to his appointment as Switch Board Attendant and as such they were senior to him. Their promotion to Electrician HS-II on the basis of seniority cannot be faulted. We do not find any discriminatory treatment in case of the applicant. We find no merit in the application and dismissed the same as such.

There shall, however, be no order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN

Central Administrative Tribunal
 2 NOV 2000
 007 ACN 2
 Central Administrative Tribunal
 Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
 GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
 CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 375 OF 2000.

Sri Surendra Deb

..Applicant.

-Versus-

Union of India & Others

.. Respondents.

I N D E X

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Filed by

Advocate.

(ADIL AHMED)

Filed by
Shri Surendra Deb
Applicant
through
(APIC XHME) 2
ADVOCATE

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985.)

ORIGINAL APPLICATION NO. 375 OF 2000.

B E T W E E N

MES 225049 Sri Surendra Deb,
Electrician (SK), Office of
the Garrison Engineer,
P.O.-Narengi, Guwahati.

- Applicant -

-AND-

1] Union Of India,
represented by the Secretary
✓ to the Government of India,
Ministry of Defence,
New Delhi.

2] The Commander Works Engineer,
✓ Air Force, P.O.- Guwahati Air
port, Guwahati-781015.

3] The Garrison Engineer,
✓ Narengi, P.O.- Satgaon,
Guwahati-781027.

- Respondents.

[Handwritten signature]

DETAILS OF THE APPLICATION:

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

This instant application is directed against the Office Order No. 1001/5/SD/21/EIE dated 09-03-2000 by which the applicant's promotion to the Grade of Electrician HS-II has been rejected by the Office of the Respondent No. 3.

2. JURISDICTION OF THE TRIBUNAL

The applicant declares that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal.

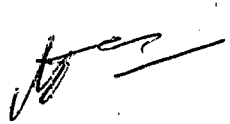
3. LIMITATION

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE

Facts of the case in brief are given below:

4.1] That your humble applicant is citizen of India and as such, he is entitled to all



the rights and privileges guaranteed under the Constitution of India.

4.2] That your applicants beg to state that he was initially appointed as Motor Pump attendant on 28-05-65 under the Ministry of Defence and posted at the Office of the Garrison Engineer, Digaru, Kamrup, Assam. He was promoted to Switch Board Attendant on 29th June, 1972.

Annexure-A is the photocopy of appointment letter of the applicant as Motor Pump Attendant.

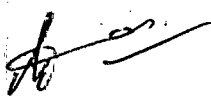
4.3 That your applicant begs to state that he passed his trade test for promotion to the post of Electrician in 1978. The post of Switch Board Attendant was redesignated as Electrician (SK) with effect from June, 1987 as per Government of India Ministry of Defence's letter No. 91026/EIC/88/D(W-II) dated 24th June, 1987. It is pertinent to mention here that the applicant has passed his Trade Test before the reclassification of three categories of Electrician. The Posts of Electrician HS-II were being filled by the feeder Group viz. Lineman, Switch Board Attendant and Wire-man on the basis of the Seniority cum Trade Test conducted by the Departmental Promotion Committee.

Annexure-B is the photocopy of Trade Test result passed by the applicant.

Handwritten signature/initials

4.4 That your applicant begs to state that he was senior most Switch Board Attendant in the Office of the Garrison Engineer, Narengi in the year 1972. The applicant's promotion to the post of Electrician HS-II is due from 1978 from which year he had passed his Trade Test for Electrician. It may be stated that due to unknown reasons the Respondents have not promoted the applicant to the post of Electrician HS-II.

4.5 That your applicant being aggrieved by this approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati by filing O.A. No. 448 of 1999 seeking a direction from the Hon'ble Tribunal to direct the Respondents to promote the applicant to the post of Electrician HS-II from the date of promotion of his juniors with retrospective effect with all consequential service and monetary benefits. The Hon'ble Tribunal on 03-02-2000 disposed of the Original Application after hearing both the parties and a direction was issued to the Respondents for granting financial benefits to the applicant within two months, which is pending before the Respondents. The Respondent No. 3 by its order No. 1001/5/SD/21/EIE dated 09-03-2000 rejected the claim of the applicant and hence your applicant is compelled to approach this Hon'ble Tribunal again for seeking justice in this matter.



Annexure-C is the photocopy of order dated 03-02-2000 passed by the Hon'ble Tribunal in O.A. No. 448/99.

Annexure-D is the photocopy of Order No. 1001/5/SD/21/EIE dated 09-05-2000.

4.6 That your applicant begs to state that in the rejection letter dated 09-05-2000 issued by the Respondent No. 3 it has been stated that the applicant has not mentioned any name nor any particular of his junior who has been promoted to the Grade of Electrician HS-II by suppressing your applicant.

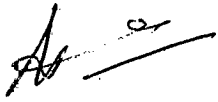
4.7 That your applicant begs to state that the following persons namely: 1] Sri D. C. Roy, MES No. 225785 who has appeared for trade test from Switch Board attendant to Electrician has been declared failed but he was promoted to the post of Electrician HS-II with effect from 16-10-81; 2] Sri H.C. Nurzary MES No. 225717 also appeared in the above trade test from Switch Board attendant to Electrician has been declared failed but he was promoted to the post of Electrician HS-II w.e.f. 16-10-81 and one late M.C. Das whose MES Number was 224323 also declared failed in the above trade test but he was promoted to the post of Electrician HS-II w.e.f. 16-10-81.

At 50

From the above it appears that the above named persons who were promoted to the post of Electrician HS-II from Switch Board attendant without passing necessary trade test. But in case of the applicant who appeared and passed the trade test to the post of Electrician before re-classification of three categories of Electrician has not been promoted to the post of Electrician HS-II.

4.8 That your applicant begs to state that he is serving in this Department since 1965 with best satisfaction to all concerned and also passed his Trade Test for Electrician and as such, he has acquired the valid right for his promotion to the post of Electrician HS-II from the date of promotion of his juniors with all consequential service benefit including Monetary benefit. Be it stated that if his juniors by this time acquired eligibility for the next higher grade promotion then they will further supercede the applicant in the matter of promotion. Therefore, the applicant has compelled to approached this Hon'ble Tribunal for immediate interference in the matter and also for seeking justice from the Hon'ble Tribunal.

4.9 That your applicant begs to state that he has served this department more than 34 years without any blemish in his service of career. He has served very sincerely and



honestly. Now he is at the verge of retirement but he has been deprived from his due promotion by the Respondents.

4.10 That your applicant submits that the Respondents have disposed of the applicant's case of promotion to the Electrician HS-II by very casual manner on 09-03-2000. The Respondents have not gone to the depth of the case and also not fully scrutinized the records and facts of the case regarding his promotion to the post of Electrician HS-II. Although similarly situated persons who have failed in the Trade Test from Switch Board attendant to Electrician are enjoying the financial benefits and service benefits of Electrician HS-II.

4.11 That your applicant submits that the action of the Respondents is mala fide, illegal, arbitrary and whimsical and also with a motive behind. As such, the applicant is compelled to approach this Hon'ble Tribunal for seeking justice.

4.12 That your applicant submits that the Respondents have violated the provision of guide line regarding promotion and also deprived your applicant by giving the benefit of promotion to his junior persons without showing any cause or causes.

4.13 That your applicant submits that that many of his juniors have already been promoted

to the post of Electrician HS-II by the Respondents. But the applicant's case is left out by the Respondents the reasons are best known to the Respondents.

4.14 That your applicant submits that the Respondents have resorted the colourable exercise of power to deprive the applicant. The action of the Respondents is arbitrary and whimsical.

4.15 That this application is made bona fide and for the ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1 For that, on the reasons and facts which are narrated above, the action of the respondents, is prima facie illegal and without jurisdiction.

5.2 For that, the Respondents did not applied their mind properly in rejecting the promotion of the applicant to the post of Electrician HS-II and as such it appears to be bias and there has been serious miscarriage of justice.

5.3 For that, the Respondents have completely mis-conceived the facts and relevant guidelines for promotion

Ab

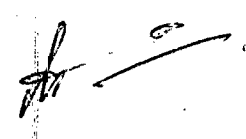
of applicant and consequently come to an erroneous decision and as the promotion of the persons who are junior to the applicant is illegal and mala fide and violative of principle of natural justice.

5.4 For that, the Respondents are being model employer cannot be allowed to adopt a discriminatory treatment to the applicant.

5.5 For that, the applicant had not passed the Trade Test of the Electrician by backdoor policy. He was selected through proper procedure and rules. Hence, the Respondents cannot deny the benefit of promotion to the applicant.

5.6 For that, the junior of the applicant has already been given promotion and as such the Respondents cannot deny the same to the applicant.

5.7 For that, the applicant is a victim of hostile discrimination and thereby the respondents violated the principle of administrative fair play and Article 14 & 16 of the Constitution of India.



5.8 For that, due to negligence of the respondents, the applicant has not been promoted in due time and as such, the applicant should be promoted with retrospective effect from the date when his juniors have been promoted to the post of Electrician HS-II.

5.9 For the, in any view of the matter the action of the respondents are not sustainable in the eye of law.

The applicants crave leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

6. DETAILS OF REMEDIES EXHAUSTED :

That there is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the

instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that your Lordship may be pleased to admit this petition, records may be called for and after hearing the parties on the cause or causes that may be show and on perusal of the records grant the following relief to the applicant.

8.1 To direct the respondents to promote the applicant to the post of Electrician HS-II from the date of promotion of his juniors with retrospective effect with all consequential service and monetary benefits.

8.2 To pass any other order or orders as deem fit and proper by the Hon'ble Tribunal.

8.4 Cost of the application.

8. INTERIM ORDER PRAYED FOR :



The applicant prayed for an interim order from this Hon'ble Tribunal directing the respondents not to give any further Promotion to the Post of Electrician HS-II who are juniors to the applicant.

11. Application Is Filed Through Advocate.

12. Particulars of I.P.O.:

I.P.O. NO. 26503435

Date Of Issue 1.11.2000

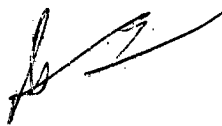
Issued from Guwahati G.P.O.

Payable at Guwahati

12. LIST OF ENCLOSURES:

As stated above.

.. Verification.



VERIFICATION

I, MES 225049 Sri Surendra Deb, Electrician (SK), Office of the Garrison Engineer, Narengi, P.O.- Satgaon, Guwahati-27 under the Ministry of Defence, the applicant of the instant case do hereby solemnly verify that the statements made in paragraphs 4.1,

4.2, 4.4, 4.6 to 4.9 are true to my knowledge, those made in paragraphs 4.3, 4.5, -

- are being matters of records are true to information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and rest are my humble submissions before this Hon'ble Tribunal I have not suppressed any material facts.

And I sign this verification today on this the 2nd day of November 2000 at Guwahati.

Sauri Ina Del.
Declarant

ANNEXURE-A
No 1200/57-201/E-1
GARRISON ENGINEER DIGARU
PO: DIGARU DIST: KAMRUP
ASSAM 1965

ANNEXURE-A

SHRI SOURENDRA DEB

Subject :- APPOINTMENT OF - MOTOR PUMP ATTENDANT

You are hereby offered the appointment of MOTOR PUMP ATTENDANT
at Rs 75/- p.m. plus allowance as admissible from time to time
in the time scale of Rs 75-1-85-EB-2-95.

2 Your appointment is subject to the following conditions:-

(a) You will be held on probation for the first three months which may be extended at the discretion of the appointing authority. During this period services can be terminated without notice by either party.

(b) No TA / DA is admissible of joining the appointment.

(c) You have not more than one wife living.

(d) A certificate of fitness from Civil Surgeon / Commissioned Medical Officer will be produced in duplicate.

(e) You will produce character certificate from two Gazetted Officers. Necessary Scheduled caste/tribe certificate will also be produced.

3 If you accept the offer please report to AGE E/M Digaru
Station on 26-5-85 for duty.

MAJOR ENGRS
GARRISON ENGINEER DIGARU

Copy to :-

AGE E/M Digaru

- for necessary action. Please forward arrival report with connected documents as soon as the above individual reports for duty.

SS/28/APR

Attested
Advocate

-16-

ANNEXURE-B

GE HARANGI PTO NO 12 DATED 22 MAR 71

IN GE NO 6 (C) 6 AND 1.

PART IV (b) (c)

TRADE TEST : INDUSTRIAL PERSONNEL (C) (D)

78. NYA Shri SURENDA DEV

MPA 30 Nov 70

Apparatus Promotion
Trade Test of Ref/Mech
held on 20, 21 & 23 Nov 70
and declared :-

Result :- PASSED

79. NYA Shri RAJENDRA SINGH

MPA 30

Apparatus Promotion
Trade Test of Ref/Mech
held on 20, 21 & 23
Nov 70 and declared
Result :- PASSED

80. NYA Shri RAM JANAK SINGH

-do-

-do-

Result :- FAILED

Authy : For item No 2 to 80
CWE GAUATI letter No 1056/904/EI dated 27 Feb 71.
(PART IV (b) ENDS WITH SERIAL NO 80)

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(ID PANDEY)

2/Lt
for GARRISON ENGINEER

Distribution

1. CE HQ EC CALCUTTA (EIR)
2. -do- (EID) 5 copies
3. -do- (EIA) 3 "
4. CE NEZ SHILLONG
5. CWE GAUATI
6. CDA PATNA
7. UA GE NARANGI
8. AGGR GE 583 E.P C/O 90
9. AGE B/R No 1 NARANGI
10. AGE B/R No 2 NARANGI
11. AGE B/R No 3 BASISTHA
12. AGE E/M NARANGI
13. BSO NARANGI
14. PAY CLERK
15. DOCUMENTATION CLERK
16. GUARD FILE

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Attested
Handwritten signature
Advocate

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO. 448/99

OF 199

Applicant(s) Sri Surendra Deb.

Respondent(s) Union of India and ors.

Advocate for Applicant(s) Mr. A. Ahmed.

Advocate for Respondent(s) C.G.S.C.

3.2.2000

This application has been filed by the applicant seeking certain directions. The applicant state that the benefits which he is entitled to has not been given to him. However, the matter was placed before the competent authority of the Defence department. The applicant was expecting a decision from the department. However, till now nothing has been done.

We have heard Mr A.Ahmed, learned counsel for the applicant and Mr B.C.pathak,

,contd..


Certified to be true Copy

प्रमाणित प्रतिलिपि

Section Officer (S)

प्रमुख अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati

Attested
[Signature]
Advocate

| Notes of the Registry | Date | Order of the Tribunal |
|---|-----------------|---|
|  | <p>3.2.2000</p> | <p>learned Addl.C.G.S.C for the respondents Mr Pathak also states that the decision is yet to be taken. In these circumstances we dispose of this application with a direction to the respondents to take a decision on the matter of granting financial benefit to the applicant which is pending before them within 2 months from the date of receipt of this order.</p> <p>The application is disposed of. No order as to costs.</p> |

Sd/-VICECHAIRMAN
Sd/MEMBER (A)

Attested
[Signature]
Adm. Secy.

Tele : Mil : 6060

-19- ANNEXURE-D
Garrison Engineer Narangl
PO : Satgaon, Dist: Kamrup
Guwahati-781027 (Assam)

1001/5/SD/21

/EIE

09 Mar 2000

MES/225049
Shri Surendra Deb
Electrician (SK)

SPEAKING ORDER-IN-COMPLIANCE-WITH-HON'BLE-
GAT GUWAHATI BENCH-ORDER DATED 03 FEB-2000
IN-OA-NO-448/99 FILED BY-SHRI-SURENDRA
DEB VERSUS UNION OF INDIA AND OTHERS

1. Your case for promotion to the grade of Electrician (HS-II) has been considered and examined by the appropriate authority with reference to your representation dated 28 Apr 99 and also with reference to reliefs/prayers sought by you in OA No. 448/99.
2. On detail scrutiny and examination of your service records it is seen that you have not yet qualified for the trade test of Electrician HS-II in accordance with recruitment rules as published vide SRO 204 dated 12 Sep 91. As such you are not eligible for promotion to the grade of Electrician (HS-II) as per recruitment rules.
3. In your representations as stated in para 1 above, although you have not mentioned neither any name nor any particulars of your juniors who have allegedly been superseded you in the matter of promotion ; however, on verification of office records it is seen that no ineligible juniors have been found promoted to the grade of Electrician (HS-II) by superseding you as alleged. In this connection combined area seniority list of lineman, wireman, SBA etc is also enclosed herewith for your information, verification and return to this HQ.

Encl : 14(fourteen) sheets
containing area seniority
list of L/Man,W/Man,SBA
etc.

(NS Sandhu)
Major
Garrison Engineer

COUNTERSIGNED BY :

CHECKED AND FOUND CORRECT

Sukumar Das
(Sukumar Das)
Adm Offr
for CWE(AF) Gauhati

SD/ x x x x x
(BC Pathak)
Addl CGSC
CAT Guwahati
Guwahati Bench
Guwahati

CLW
DATE

Attested
Advocate

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : : : GUWAHATI

O.A. No. :- 375 OF 2000

Shri Surendra Deb

-vs-

Union of India & others

IN THE MATTER OF

Written statement submitted by the respondents.

The respondents submitted the written statements as follows:-

1. That with regard to para 1 the respondents beg to state the contents of the para is a matter of records. Nevertheless it is mentioned that the applicant is not due for promotion and hence denied.
2. That with regard to paras 2,3 and 4 the respondents beg to offer no comment.
3. That with regard to para 4.2 the respondents beg to state that the applicant was initially appointed as Motor Pump attendant (MPA) in the scale of pay Rs. 75-1-65-EB-2-95 /-. The applicant thereafter appeared for the Trade Test of Switch Board Attendant and was subsequently promoted to the next higher category i.e. Switch Board Attendant (SBA) carrying a higher pay scale of Rs. 85-2-95-EB-3-128/- wef 29.6.1972.
4. That with regard to para 4.3 the respondents beg to state that the applicant appeared for the trade test of SBA and having qualified by passing the trade test was promoted to the post of SBA wef 29.6.72 as already brought out here-in-before. The applicant has passed the Trade Test for Electrician and not Electrician

Deputy Garrison Engineer Narangl

EE

D. N. Arya

(A. DEB ROY)

Sr. C. G. S. C.

A. T. Gurahati Bench

D. N. Arya

EE

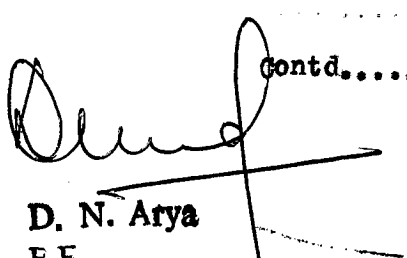
Garrison Engineer Narangl

HS-11 and the applicant has already been designed as Electrician by way of reclassification of his trade. ✓
The rest contention of the para is a matter of record.

5. That with regard to para 4.4 the respondents beg to state that the contention of the para is far from facts and thus refuted in toto. The applicant's seniority in the grade of SBA will come from the date of his promotion to the grade i.e. 29.6.72 as will be evident from the succeeding paras. Whereas various other employees were appointed direct to the post of SBA on various dates prior to 1 June 1972. Thus employees appointed prior to the promotion of the applicant are justifiably considered senior. Promotion is based on various aspects and norms laid down by the Government. Simply passing Trade Test does not entitle a person to promotion. Aspects such as vacancy exists or not are essential and mandatory prior to issue of promotion orders. Which is also lawfully binding on all Government Employees.

6. That with regard to para 4.5 the respondents beg to state that as already brought out here-in-before that certain criteria are to be considered prior to issue of promotion orders and whereas it is an established fact that due to

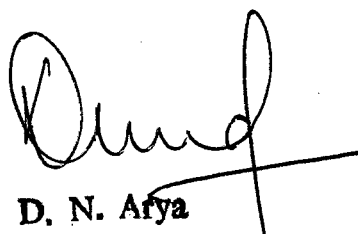
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D. N. Arya
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such constrain the applicant could not be promoted and his case would be considered in due course and as such the question of being aggrieved does not at all arise. No juniors of the applicant have been promoted by superceeding the applicant and as such his contention is denied and refuted in toto. The same was also intimated to the applicant through a Speaking Order vide Respondent letter No. 1001/5/SI/21/EE dt 09 Mar 2000 copy of order dated 9.3.2000 is annexed hereto and marked as Annexure A.

7. That with regard to para 4.6 the respondents beg to state that the respondents not being aware of such incident wherein juniors had superceeded senior was bound to call upon the applicant to submit the names of juniors who have superceeded him, which is justified and lawfully correct.

8. That with regard to para 4.7 the respondents beg to state that the contention of the applicant is far from facts. The applicant had passed the Trade Test for Electrician and not Electrician HS-II. And due to the reclassification of three grade structure viz. lineman, SBA and wireman as Electrician (SK) and applicant is deemed to be Electrician (SK) and his claim that he has passed the Trade Test and should be promoted to Electrician HS-II is not tenable or


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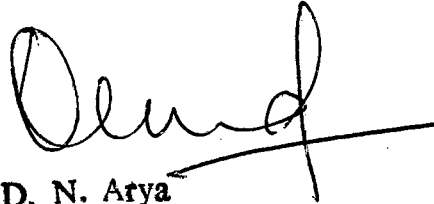
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justified. As regards to promoting of juniors, it is brought out that no juniors have been promoted out of turn as is evident from the list of SBAs (Elect (SK)) enumerated below :-

| Sl No. | MES No. Name and Designation | Initial Apptt | seniority in Grade |
|--------|---|------------------------------------|--------------------|
| 1. | MES/225185 Shri DC Roy. Elect HS-II | <u>1.7.65</u> SBA | 1.7.65 |
| 2. | MES/225117 Shri H C Narjari Elect HS-II | <u>9.5.67</u> SBA | 9.5.67 |
| 3. | MES/224968 Shri Bte M C Das | <u>01.9.67</u> SBA | 1.9.67 |
| 4. | MES/225049 Shri Surendra Deb | <u>28.5.65</u> /MPA 29.6.72/SBA | 29.6.72 |

It will be seen from the above that Sl Nos 1 to 3 are senior to the applicant. Further more they have not been promoted but upgraded in terms of Government of India. Min of Defence letter No.1 (2)/80/D(ECC/IC) dt 11 May 1983. It would be clear from the Letter No. 1023/D/320/EINB dt 28 May 85 issued by the Respondant No 2 that the


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afforsaid employees have been upgraded purely on seniority basis, and not promoted. Thus the action taken by the respondents are well within stipulated Govt orders and is lawfully justified copy of letter dated 11.5.83 and dated 28.5.85 are annexured as ANNEXURE B and C respectively. ✓

9. That with regard to para 4.8 the respondents beg to state that the question of again superceeding does not arise as already brought out here-in-before. The very fact that the persons already upgraded and senior to the applicant can be considered for further promotion as per laid down norms of the Government. The applicant's claim for promotion to Electrician HS-II by simply passing the Trade Test of Elect is neither tenable nor justified.

10. That with regard to para 4.9 the respondents beg to state that the applicant has never been denied his legitimate dues and rights. He was in fact promoted to the post of SBA on his turn and the respondents have never on any occasion taken any malafide, illegal or arbitrary action as alleged by the applicant in all his claims.

11. That with regard to para 4.10 the respondents beg to state that the contents of the Speaking Order was served on the applicant after proper checking of all relevant documents, laid down rules and norms of the Government. The applicant be asked to produce documentary evidence in support of his contention wherein


D. N. Arya

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his juniors have been promoted on Electrician HS-II.

12. That with regard to para 4.11 the respondent beg to state that no mala fide, arbitrary or whimsical action has been taken by the respondent as evident from the succeeding paras. The seniority list of SBA which enclosed with the speaking order served on the applicant proves that the action taken by the respondent is just and as per Govt orders and rules.

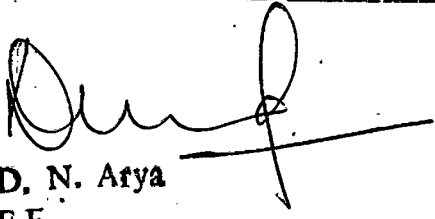
13. That with regard to para 4.12 and 4.14 the respondents beg to state that the contents of the paras are far from facts and misconceived.

14. That with regard to paras 5.1 to 5.9 the respondents beg to state that in view of the submissions made there is no ground to get any relief.

15. That with regard to paras 6 and 7 the respondents beg to offer no comment.

16. That with regard to paras 8.1 and 8.2 the respondents beg to state that no junior to the applicant was promoted and so he is not eligible to get any relief.

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Garrison Engineer Narangi

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VERIFICATION

I MES - 186185, D. N. ARYA, EE, GARRISON

ENGINEER, NARANG Being authorised do hereby solemnly declare that
the statements are true to my knowledge and information and I
have not suppressed any material fact.

And I sign this verification on this 5th day
of February 2001.


DECLARANT

D. N. Arya

EE

Garrison Engineer Narang