

Central Administrative Tribunal, Jabalpur Bench

O.A. No. 403 of 2005

Jabalpur this the 5th day of April, 2006

Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)
Hon'ble Dr. G.C. Srivastava, Vice Chairman (A)

Anil Kumar Dubey
S/o Shri S.B. Dubey
Aged about 51 years
R/o Gayatri Nagar
Katna (MP).

...Applicant

By Advocate: Shri V. Tripathi.

Versus

1. Union of India through its
Secretary,
Ministry of Defence (Production),
New Delhi.
2. Director General/Chairman,
Ordnance Factory Board,
10-A, Shaheed S.K. Bose Marg,
Kolkata.
3. General Manager,
Ordnance Factory,
Katna (MP).

...Respondents

By Advocate: Shri S.A. Dharmadhikari.

ORDER (ORAL)

By Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)

The applicant was working as Examiner in Metallurgical stream under the respondents' department. He was eligible for his promotion to the next higher post in the said Metallurgical stream as per the recruitment rules. However, the applicant has filed the present OA for a direction to the respondents to consider him for promotion to the post of Charge Man Grade-II(T)/(Chemical) with all consequential benefits. He also sought setting aside the orders dated 20th January, 2005 and 21.11.2004, whereby the respondent authorities have rejected the claim of the applicant for promotion to the post of Charge Man Grade-II(T)/(Chemical) against the vacancies for the year 2004-05 and has further prayed that in case he is promoted to the said post he should be granted all the consequential benefits. In the alternative he has prayed that relaxation if necessary may



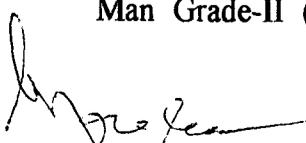
be granted to him under the Rules/SRO for promotion to the said post of Charge Man Grade-II(T)/Chemical.

2. The applicant has submitted that though he was appointed as Examiner in Metallurgical stream but during the past 24 years he had been doing the work in Chemical side under the respondent No.3. He had acquired sufficient experience in the chemical side of the factory. In view of his vast experience while working in the Laboratory, the applicant has gathered the expertise of chemical analysis of non-ferrous products. The applicant submitted that he possessed the requisite qualification of B.Sc. and, thus, ought to have been considered for promotion to the post of Charge Man Grade-II(T)/Chemical.

3. The respondents have repudiated the claim of the applicant on the ground that as per Recruitment Rules he could only be promoted in the Metallurgical stream in which he was working as Examiner and not to any other stream. It is, therefore, submitted that the applicant being Examiner under the Metallurgical stream, his case will be considered for promotion in the Metallurgical stream only for which he is eligible to be considered as per seniority in his turn against departmental quota of 50%.

4. At the hearing the learned counsel for the applicant had fairly admitted that as per rules the applicant is eligible for promotion to the next higher post in Metallurgical stream. But his argument is that in view of applicant's long experience in the Chemical line he should have been considered for promotion to the post of Charge Man Grade-II/Chemical. The learned counsel for the respondents has pointed out that the SRO permit B.Sc. candidates having 2 years skilled experience in the Limited Departmental Competitive Examination to compete in Chemical as well as Metallurgical Stream which the applicant has already tried but could not succeed. It is stated that as per rules Departmental promotion in various disciplines are strictly on seniority cum fitness basis. He has further stated that the rule does not permit the applicant to be promoted to the post of Charge Man Grade-II/Chemical and that the relaxation of SRO can be considered only when the same is necessary or expedient to do so. These facts were not controverted on behalf of the applicant.

5. The applicant is working as Examiner in Metallurgical stream. The post of Charge Man Grade-II (T) Chemical is in the Chemical stream. The post of Examiner in



Metallurgical Stream is not the feeder cadre to that post. The applicant, as such, is not eligible to be considered for his promotion in Chemical Stream under the relevant rules. Simply because he has acquired specialization/experience in Chemical line during his over 25 years of service, he cannot be considered for promotion in Chemical stream in contravention of the Recruitment Rules. The relaxation can be granted by the administration under the relevant rules ~~if~~ it is considered necessary or expedient to do so. The respondents cannot be directed to consider the case of the applicant in relaxation of the rules if the competent authority of the respondent did not consider such relaxation necessary or expedient.

6. In the result the OA has no merit and it is accordingly dismissed. The parties shall bear their own costs.

Grawal Mohammed Khan
(Dr. G.C. Srivastava) (M.A. Khan)
Vice Chairman (A) Vice Chairman (J)

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