

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
JABALPUR

Original Applications No 407 of 2004

Indore, this the 18<sup>th</sup> day of October, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. Madan Mohan, Judicial Member

P.N. Singh,  
S/o Shri Raghupati Singh  
Aged about 56 years,  
Resident of 370, Lalmati  
Chungichowki, Jabalpur

Applicant

(By Advocate – Shri S.Paul)

VERSUS

1. Union of India,  
Through its Secretary,  
Defence production  
New Delhi.
2. Chairman,  
Ordnance Factories Board,  
10-A, Shahid Khudiram Bose Marg  
Kolkata.
3. The General Manager  
Gun Carriage Factory,  
Jabalpur.

Respondents

(By Advocate – Shri P.Shankaran)

ORDER

By Madan Mohan, Judicial Member –

By filing this Original Application, the applicant has sought the following main reliefs :-

“(ii) Set aside the order dated 2.1.2004 Annexure-A- ) and order dated 3.1.2003 Annexure A- to the extent it deprives the applicant from promotion as Supervisor Grade-I.

(iii) Direct the respondents to promote the applicant as Supervisor Grade-I immediately after completion of 8 years of



service as Asstt. Supervisor Grade-I with all consequential benefits including arrears of pay and seniority etc."

2. The brief facts of the case are that the applicant was initially appointed on 6.6.1972 as Canteen Bearer. The services of the applicant was terminated in the year 1979 and thereafter he was again appointed as such as fresh a candidate vide order dated 15.2.1981 in the pay scale of Rs.196-232. According to the applicant he has participated in the selection process for the post of Assistant Supervisor Canteen in the pay scale of Rs.260-400. In pursuance to the selection he was appointed as Asst. Supervisor Canteen Gr.I (Adhoc) and thereafter he was confirmed on the said post vide order dated 1.12.1992(Annexure-A-3). As per recommendation of 4<sup>th</sup> Pay Commission the scale of Asst. Supervisor Gr.I was Rs.950-1500 and on the recommendation of 5<sup>th</sup> Pay Commission the pay scale of Asst. Canteen Supervisor Gr.I was enhanced to Rs. 3050-4590. The aforesaid post has been abolished vide order dated 13.7.1998 (Annexure-A-5). In spite of abolishing the post of Asstt. Supervisor Canteen Gr.I, the applicant is being paid the pay scale of Rs.3050-4590 which is the pay scale of Asstt. Canteen Supervisor. The applicant contended that one Shri Gurcharan Sing was working as Supervisor Gr.I in the Canteen and he voluntarily retired from service in the GCF canteen. After his retirement the applicant had preferred many representations with a request to promote him as Supervisor Gr.I. However, the respondents have not promoted the applicant. Hence, he has filed OA No. 834/2002 in this Tribunal and vide order dated 10.11.2003 the Tribunal has directed the respondents to consider and dispose of the representation of the applicant. However, the respondents have not considered the case of the applicant in proper perspective and wrongly mentioned in their order dated 2.1.2004 that there is no vacant post of Supervisor Gr.I in the pay scale of Rs.5000-8000. Aggrieved with the action of the respondents, the applicant has filed this OA.



3. Heard the learned counsel for the parties and carefully perused the records.

4. The learned counsel for the applicant has argued that the post of Supervisor Grade-II was not available in the GCF Canteen. However, the said post was created only to deprive the applicant from the promotion as Supervisor Gr.-I though, the post of Supervisor Gr.I was available in the GCF Canteen after retirement of Shri Gurucharan Singh. As per SRO 133 the applicant was eligible to be promoted as Supervisor Gr.I after completion of 8 years of service as Asst. Supervisor Gr.I. However, the respondents have deprived the applicant from his legitimate right. The action of the respondents is illegal and unjustified. Hence, this OA deserves to be allowed.


5. In reply the learned counsel for the respondents argued that long back there was one post of Supervisor Gr.I in the scale of Rs.5000-8000/- which was occupied by one Shri Guru Charan Singh, who voluntarily retired on 31.5.1992 and after the retirement of said incumbent the post of Supervisor Gr.I was not filled up because of Zero Base Budgeting. The respondent No.3 requested for sanctioning and one post of Assistant Supervisor along with Cashier-Cum-Clerk. The above project was done in the year 1991 and the respondent No.2 has also ordered that unless and until the project post is sanctioned, no recruitment or promotion be effected in the cadre/post which will upset the Zero Base Budgeting plans of the organization. In the meantime the applicant has filed the OA No.834/02 in this Tribunal. The Tribunal has disposed of the said OA vide order dated 10.11.2003 directing the respondents to consider and decide the aforesaid representation of the applicant. Thereafter, the respondents have considered the request of the applicant for promoting him to the next higher grade as per existing SRO and with the approval of respondent No.2 granted him promotion to the post of Supervisor Gr.II vide order dated 2.1.2004. The learned counsel for the respondents further argued that the relief claimed by the applicant to fill up the vacant post of Shri Gurucharan Singh is not acceptable




because of the fact that consequent to the implementation of Zero Base Budgeting in the various departments, the above post was never filled up it got lapsed on its own. He has also stated that on restructuring of the canteen staff, the Govt. of India have banned for creating new posts. Thus, the question of promoting the applicant to a non existent post is not in order and is in violation of the statutory rules and orders

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the applicant is claiming his promotion on the ground that one post of Supervisor Gr.I become vacant after retirement of Shri Gurucharan Singh. He was eligible for promotion on the aforesaid post because he has completed 8 years of service on the post of Asst. Supervisor Gr.I. We find from the reply that the respondents could not have filled up the post of Supervisor Gr.I consequent to the implementation of the principles of Zero Base Budgeting in various departments. The above post was never filled up and it got lapsed on its own. Thus the question of promoting the applicant to a non existent post is not in order and is in violation of the statutory rules and orders. We have perused the order dated 2.1.2004 wherein the respondents have discussed the matter of the applicant for promoting him on the post of Supervisor Gr.I from the date when it was fallen vacant. It is clarified by the respondents No.3 that under any circumstances neither the post of Supervisor Gr.I was existing with them at any point of time nor it was vacant as claimed by him. We also find that the Government have imposed the ban for creating new posts. We cannot direct the respondents to fill up any post, though there was no such post of Supervisor Gr.I lying vacant.

7. After considering all the facts and circumstances of the case, we do not find any merit in this OA. Accordingly, the same is dismissed. No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman