

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR**

Original Application No776 of 2004

Imdate This the 18th day of October, 2005.

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

**M.A.Jafri S/o Shri Basharat Ali,
Aged about 54 years,
Dy. Chief Engineer (E&I), Security Paper Mill,
Hoshangabad (M.P.)** **Applicant**

(By Advocate – Shri Manoj Sharma)

VERSUS

1. Union of India Through the Secretary
Ministry of Finance, Department of Economic Affairs,
New Delhi.
2. The Joint Secretary (C&C), Ministry of Finance,
Department of Economic Affairs,
Currency Branch, North Block,
Central Secretariat, New Delhi. 110 001.
3. The General Manager, Security Paper Mill,
Hoshangabad (M.P.) **Respondents**

(By Advocate – Shri B.da.Silva)

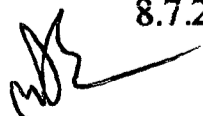
ORDER

By M.P.Singh, Vice Chairman –

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

“ii) Issue a writ in the nature of mandamus directing the respondents to give the benefit of seniority to the applicant from 1.6.1993 to the post of Dy. Chief Engineer with all consequential benefits of seniority and arrears thereof.

iv) Quash and set aside the impugned order dated 8.7.2004, Annexure-A/1.”

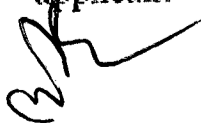


2. The admitted facts of the case are that the applicant joined the Security Paper Mill as an Engineer (Electronics & Instrumentation). In 1992, an expert body i.e. the National Productivity Council (for short 'NPC') has made some recommendations in order to improve the output and production of the Mill. Some of the recommendations provided for the upgradation and re-designation of certain existing posts, creation of new posts and abolition of some of the old posts. In pursuance of the acceptance of the recommendations of the NPC, the Ministry of Finance vide order dated 20.8.1993 (Annexure-A-2) had redesignated the posts. By this order, the applicant and one Yaspal Singh Ravi, who were holding the post of Engineer (E&I) were redesignated as Assistant Manager (E&I) in the same pay scale of Rs.2200-4000. As per the recommendations of the NPC, one post of Engineer (E&I) was upgraded to the post of Deputy Chief Engineer (E&I) (Rs.3000-4500). The recruitment rules for filling up the post of Dy. Chief Engineer were published on 31.5.1997 (Annexure-A-3). As per the recruitment rules, the immediate senior of the applicant Shri Yashpal Singh Ravi did not possess the requisite qualifications and the applicant was considered, and on being recommended by the DPC, he was promoted to the post of Dy. Chief Engineer w.e.f.23.10.1998.

2.1 The main grievance of the applicant in the instant OA is that in the case of some of officers, the respondent-department has implemented the NPC report and given benefit of seniority in the upgraded post from 1.6.1993 but in the case of the applicant the same has been granted from 23.10.1998. Since the applicant has been discriminated, he has approached this Tribunal by alleging that he has not been given the similar treatment by giving him seniority w.e.f.1.6.1993.

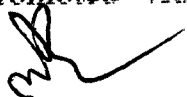
3. Heard the learned counsel of both the parties.

4. The learned counsel for the applicant has stated that the applicant who was redesignated as Assistant Manager on the



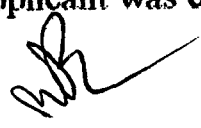
recommendations of the NPC in 1993 has been promoted to the post of Dy.Chief Engineer on 23.10.1998. In fact the post should have been upgraded and he should have been granted seniority from 1.6.1993 as has been done in some other cases. He has drawn our attention to the chart prepared by him which is at Annexure-A-4, and has submitted that many other incumbents of the posts have been granted the benefit of the higher posts without waiting for the finalization of the recruitment rules and holding the DPC for promotion to the next higher post. He has specifically mentioned that the post of Administrative and Chief Accounts Officer (Rs.3000-4500) was upgraded to Manager (Finance) (Rs.3700-5000) and the incumbent of the said post has been deemed to have been upgraded to the post of Manager(Finance)(Rs.3700-5000) from the initial constitution. He has also given several other examples, whose names are mentioned in the chart and who have been granted the benefit of the higher post from the date of initial constitution. According to him, this amounts to hostile discrimination against the applicant as he has not been granted the seniority from the date the post was upgraded as he possessed the requisite educational qualifications.

5. On the other hand, the learned counsel for the respondents has submitted that the ~~designation of the~~ applicant as well as one Shri Yashpal Singh Ravi, who were working as Engineer (E&I) were redesignated as Assistant Manager and were working in the pay scale of Rs.2200-4000. One of the posts of Engineer(E&I) was upgraded as Dy.Chief Engineer in the scale of Rs.3000-4500. The recruitment rules of the said post have been finalized and a duly constituted Departmental Promotion Committee has been held in the UPSC and the applicant had been promoted. The applicant had not objected to the framing of the recruitment rules and also holding of the DPC for making selection to the post of Dy.Chief Engineer. On the recommendations of the DPC, he had been promoted vide order dated 23.10.1998. Moreover, neither the



recruitment rules nor the promotion order by which he has been promoted to the post of Dy.Chief Engineer has been challenged by the applicant. It is after about 12 years, the applicant is seeking the benefit of upgradation from the date of initial constitution and since the applicant has not challenged the framing of the recruitment rules and his promotion, he cannot be allowed to claim seniority from the date of initial constitution at this stage. He has further stated that there were two persons in the grade of Engineer (E&I) and the applicant was not the senior-most. Since the senior person Shri Yashpal Singh Ravi did not possess the requisite qualifications mentioned in the recruitment rules, the applicant was considered and promoted to the post of Dy.Chief Engineer. Aforesaid Yashpal Singh Ravi had filed a separate OA and the said OA was allowed by this Tribunal. However, a writ petition has been filed in the Hon'ble High Court and the order of the Tribunal has been stayed. In that OA, the applicant was one of the private-respondents and he had also filed his reply. In the said reply, the applicant had justified the action of the department to fill up the posts by way of promotion as provided in the recruitment rules. Now, he cannot turn around after having justified his promotion in accordance with the rules of 1997. He cannot now say that the procedure followed by the respondents was wrong. In paragraph 29 of his reply dated 24.1.2000 in OA 26/99 the applicant has stated that "there is no legal infirmity in the action of the official respondents. The same is just, proper and is in accordance with the Recruitment Rules". Now, he cannot ^{go back} ~~turn~~ and take a different stand. In view of this, the OA is not maintainable.

6. We have given careful consideration to the rival contention and we find that the applicant was working as Assistant Manager and was junior to aforementioned Shri Yashpal Singh Ravi. It was because Shri Yashpal Singh Ravi did not possess the educational qualification, he was not considered for promotion and the applicant was considered and on the recommendations of the DPC



he was promoted. The applicant has accepted the promotion and he did not find fault with the action of the respondents. He also did not raise the plea ^{at that stage &} that in certain other branches of the Mill, the incumbents have been promoted/ upgraded from the date of initial constitution. In fact, he has justified the action of the respondents to promote him by filing the reply in OA 26/1999. He has also not challenged the recruitment rules and also the promotion order by which he has been promoted to the post of Dy.Chief Engineer. After having accepted the promotion in the post, he cannot be allowed to claim seniority from 1.6.1993 at this stage after a period of 11 years. We, therefore, do not find any merit in this Original Application and no interference is ^{with} ~~required to be~~ called for in the action taken by the respondents.

7. In the result, the Original Application is dismissed, however, without any order as to costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

rkv

पृष्ठान्त सं ओ/न्या.....जबलपुर, दि.....

पत्तिलिपि अर्पित:-

- (1) सचिव, उच्च न्यायालय वार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/कु.....के काउंसल
- (4) वंगमल, के.प्र.अ., जबलपुर न्यायपीठ
रचना एवं आवश्यक कार्यवाही हेतु

18/10
मप रजिस्ट्रार

18/10/25
25-10-25