

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 381 of 2003

Jabalpur, this the 3rd day of December, 2003.

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

I.L. Joshi
Dy.Chief Engineer(Boiler),
Govt. of India, Ministry of Finance,
Security paper Mill,
Hoshangabad(M.P.)

APPLICANT

(By Advocate- Shri M. Sharma)

VERSUS

1. Union of India Through
The Secretary,
Ministry of Finance,
Govt. of India, North Block,
Central Secretariat,
New Delhi.
2. Joint Secretary(C&C),
Ministry of Finance, Govt. of India,
Department of Economic Affairs,
North Block, Central Secretariat,
New Delhi. 110001
3. The General Manager,
Security Paper Mill,
Hoshangabad(M.P.).461005.
4. Secretary,
Ministry of Home,
Deptt. of Personnel and Training
North Block, Central Secretariat,
New Delhi.
5. The Secretary,
U.P.S.C., Dhoulpur House,
Shahjahan Road,
New Delhi.

RESPONDENTS

(By Advocate - Shri B.da.Silva)

O R D E R

By M.P.Singh, Vice Chairman -

The applicant has filed this Original Application claiming a direction to the respondents to conduct the DPC for the post of Chief Engineer as per recruitment

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rules in force on the date when the vacancy arose; and consider the applicant from such a date with all consequential benefits of pay etc. with arrears thereon, along with interest.

2. The applicant is working as Dy.Chief Engineer (Boiler) in Security Paper Mill, Hoshangabad. He claims that he is eligible for promotion to the post of Chief Engineer as per the Recruitment Rules of 1997. As per the said rules, for the post of Chief Engineer, the Dy.Chief Engineers from all sections including the Boiler Sections were brought into the feeder grade for promotion to the post of Chief Engineer. As admitted by the respondents, a vacancy of Chief Engineer has arisen in the year 2001. The respondents have taken a decision to further amend the recruitment rules by excluding the Dy.Chief Engineer(Boiler). It is admitted that the recruitment rules have not yet been amended. Since the applicant had not been considered as per the recruitment rules of 1997 for promotional post of Chief Engineer, he filed OA 697/2002. The Tribunal vide its order dated 14.2.2003 directed the respondents to dispose of the representation of the applicant. In pursuance of the directions given by the Tribunal in the aforesaid judgment, the respondents have decided the representation of the applicant vide order dated 27.5.2003 (Annexure-A-1), rejecting the claim of the applicant. Hence, the applicant has filed this O.A.

3. Heard, both the learned counsel for the parties.

4. The learned counsel for the applicant submitted that the applicant should be considered for promotion to the post of Chief Engineer as per the existing rules as a vacancy has already arisen. In support of his claim he has relied on the decision of the Hon'ble Supreme Court in the case of B.L.Gupta & another Vs. M.C.D., (1998) 9 SCC 223 decided on 3.9.1997, and also the instructions issued by the

Department of Personnel & Training, reproduced under the heading 'Frequency of Meetings' in Swamy's complete manual on 'Establishment & Administration', which stipulates that "the DPCs should be convened at regular annual intervals to draw panels which could be utilised on making promotions against the vacancies occurring during the course of a year".

5. On the other hand the learned counsel for the respondents has vehemently opposed the contentions of the learned counsel for the applicant, and has stated that the Department has already taken a decision to amend the recruitment rules and the vacancy which has arisen in the year 2001 will be filled up as per the amended rules. He has, however, admitted that till now the amended rules have not yet been finalised. In support of his claim, the learned counsel for the respondents relied on the decisions of the Hon'ble Supreme Court in the cases of Dr. K. Ramulu and another Vs. Dr. S. Suryaprakash Rao and others, (1997)3 SCC 59, and High Court of Gujarat and another Vs. Gujarat Kishan Mazdoor Panchayat and others, (2003)4 SCC 712.

6. It is an admitted fact that a vacancy for the post of Chief Engineer has arisen in 2001. The recruitment rules of 1997 have not yet been amended. As per the existing rules, the applicant is eligible for consideration for the post of Chief Engineer. The instructions issued by the Department of Personnel & Training, as reproduced in Swamy's complete manual on Establishment & Administration under the heading 'Frequency of Meetings' clearly stipulates that -

"3.1Holding of DPC meetings need not be delayed or postponed on the ground that recruitment rules for a post are being reviewed/amended. A vacancy shall be filled in accordance with the recruitment rules in force on the date of vacancy, unless rules made subsequently have been expressly given retrospective effect. Since amendments to recruitment rules normally have only prospective application, the existing vacancies should be filled as per the recruitment rules in force."


Further, in the case of B.L. Gupta (supra) their Lordships

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have held that "any vacancy which arose after 1995 to be filled up according to amended rules" and the vacancies which arose prior to 1995 should have been filled up according to 1978 rules.


7. The reliance placed by the learned counsel for the respondents on the decisions of Dr.K.Ramulu and Gujarat Kishan Mazddor Panchayat (supra), is not applicable to the present case.

8. For the reasons recorded above, the O.A. is allowed. The respondents are directed to fill up the existing vacancy of Chief Engineer of the year 2001 by convening a DPC in accordance with the recruitment rules of 1997. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman.

rkv.

पुनर्विचार आयोग, दिल्ली
सूचना क्र. १०००/२००३
(१) श्री. म. शान्ता, अध.
(२) श्री. एस. एस. शर्मा, अध.
(३) श्री. एस. एस. शर्मा, अध.
(४) श्री. एस. एस. शर्मा, अध.
सूचना क्र. १०००/२००३

5/12/03

Final
3.12.03