

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 770 of 2003

Jabalpur, this the 5th day of November, 2004

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

Yogesh Bajpai, S/o. Shri D.K. Bajpai,
Date of birth 14.3.1973, Lower Division
Clerk, Gun Carriage Factory, Jabalpur,
resident of Qr. No. 3012, Type-III,
Sector-II, New Colony, GCF Estate,
Jabalpur.

... Applicant

(By Advocate - Shri S. Paul)

V e r s u s

1. Union of India, through its
Secretary, Ministry of Defence,
Production, New Delhi.
2. Director General of Ordnance
Factories, 10-A, Shahid S.K. Bose
Marg, Kolkata.
3. General Manager, Gun Carriage
Factory, Jabalpur.

... Respondents

(By Advocate - Shri S.P. Singh)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

Heard the learned counsel for the parties.

2. By filing this Original Application the applicant has
claimed the following main reliefs :

"(b) set aside the order dated 16.10.2003 Annexure
A-1, to the extent it has declined promotion/appoint-
ment to the applicant as Chargeman Grade-II (NT),

(c) upon holding that the applicant is entitled to
be given the benefit of his selection dated 17.8.2000
Annexure A-2, command the respondents to promote/
appoint the applicant as Chargeman Grade-II (NT/S)
from the date of his selection or from any other date,
as deemed fit by this Hon'ble Court but not later than
the promotion of other contemporaries, with all
consequential benefits,

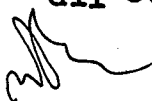
7(c) (A) clause 17.9 of Annexure R-1 be set aside being
ultra-vires and unconstitutional."

3. The brief facts of the case are that the applicant
was working as Lower Division Clerk with respondent No. 3

(e. Gun Carriage Factory, Jabalpur. He was due for promotion to the next higher post of Chargeman Grade-II (NT). The applicant had appeared in an examination conducted by the respondents under the Limited Departmental Competitive Examination quota. The undisputed facts are that the applicant has qualified the written and interview held for the said post and was selected vide letter dated 17.8.2000 (Annexure A-2). It is also not in dispute that the charge sheet served on the applicant had been issued to him only subsequently. On the date he was selected, no charge sheet was pending against him and he was clear from all vigilance angles. Therefore as per the rules if there is no charge pending promotion of the sheet/on the date of the selection, the/Government servant cannot be with-held nor any sealed cover procedure will be followed in that case.

4. The learned counsel for the respondents has drawn our attention towards the instructions issued by the Government of India, Ministry of Defence dated 3.7.2003 (Annexure R-3). we find that However, ^{3rd} these instructions have been issued on July, 2003 and are made applicable prospectively. Hence, ^{these instructions} it will not be applicable in the present case. In the present case there was no disciplinary case pending against the applicant on the date of his selection i.e. on 17.8.2000. Hence, he is entitled for his promotion to the post of Chargeman Grade-II (NT).

5. For the reasons recorded above the Original Application is allowed and the order dated 16.10.2003 (Annexure A-1) is quashed and set aside. The respondents are directed to promote the applicant ^{on the post of Chargeman Grade-II (NT)} from the due date with all consequential benefits, within a period of three



months from the date of receipt of a copy of this order.
There shall be no order as to costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

पृष्ठान्कन सं. ओ/नं. जवतपुर, दि.

प्रतिनिधि दत्तः :-

(1) सचिव, उच्च न्यायालय एवं पुनर्विचार, जवतपुर

(2) आदेशक श्री/श्रीमती/श्री के काउंसलर

(3) प्रत्यक्षी श्री/श्रीमती/श्री के काउंसलर

(4) वांछपाल, के.प्र.अ., जवतपुर न्यायाधीश

सूचना एवं आवश्यक दस्तावेजों हेतु

सप रजिस्ट्रार

Issued
On 1.12.07