

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/appointment 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

i.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 sheet pending on the date of the selection, the Government servant cannot be withheld 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, these instructions have been issued on ^{3rd} July, 2003 and are made applicable prospectively. Hence, ^{then 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 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 Mian)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....
प्रतिनिधि दाखेलीतः—

- (1) सदिग्द, उच्च न्यायालय वार पुस्तिग्रन्थालय, जबलपुर
- (2) आवश्यक श्री/श्रीमती/.....के काउसल
- (3) प्रत्यक्षी श्री/श्रीमती/.....के काउसल
- (4) बांध्याल, केप्रां, बांध्याल दा. ग्रन्थी

सूचना एवं आवश्यक दाखेली है

चय रजिस्ट्रार

Issued
On 1.12.02