

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 255 of 2002

Jabalpur, this the 6th day of September, 2004

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

U.S. Kashyap, S/o. late Darbari Lal,
Assistant Foreman (Technical/Mechanical)
Permanent No. 900993, Vehicle Factory,
Jabalpur, aged about 59 years, R/o.
House No. 277, Khermai Ward, Khatik
Mohalla, PO Hanumantal, Jabalpur, MP. ... Applicant

(By Advocate - Shri K. Datta)

V e r s u s

1. Union of India, through the
Secretary, Department of Production,
Ministry of Defence, New Delhi.
2. The Chairman, Ordnance Factory Board,
10/A, Shaheed Khudiram Bose Road,
Kolkatta, WB.
3. The General Manager,
Vehicle Factory, Jabalpur,
M.P. ... Respondents

(By Advocate - Shri P. Shankaran)

O R D E R

By Madan Mohan, Judicial Member -

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

- "i) to direct the respondent to promote the applicant prior to his juniors in Schedule Caste category and general category,
- ii) to allow all consequential benefits, wages etc. to the applicant."

2. The brief facts of the case are that the applicant is at present working as Assistant Foreman in Vehicle Factory, In the year 1980 Jabalpur. He was promoted to the post of Chargeman Grade-II from the post of Draughtsman vide order dated 1.6.1980. The applicant was promoted as Chargeman Grade-I w.e.f. 13.4.87 vide order dated 9.5.1987. The applicant was again promoted as Assistant Foreman vide order dated 20.5.1993. The post of

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Junior Works Manager is the next higher grade from the post of Assistant Foreman. For filling of the post of Junior Works Manager, 75% of vacancies are to be filled up by way of promotion and 25% by way of limited departmental examination. As per the 1994 seniority list of Assistant Foreman as on 1.1.1994, the applicant was placed at serial No. 167 of all SC persons above Shri Mouben Sheikh. But 42 persons of SC category who are juniors to the applicant had superseded in 1998 on promotion as Junior Works Manager. The applicant represented this supersession immediately to the respondents and requested for considering his promotion in the post of Junior Works Manager. The respondent No. 2 on 24.11.2000 had cleared some more promotions of Junior Works Manager but the grievance of the applicant was not removed. Again vide order dated 16.7.2001 sanction has been granted for further promotion as Junior Works Manager in which in SC vacancies persons those who have been promoted on 15.12.1997 as Asstt. Foreman were promoted superseding the applicant who was promoted in the post of Asstt Foreman on 7.5.1993. Till now no response has been given by the respondents on the representations of the applicant. Hence, this OA.

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

4. The learned counsel for the applicant argued that the applicant had good service record and nothing adverse was ever communicated to the applicant during his whole service tenure. Even then the respondents have not considered his case for promotion on the post of Junior Works Manager over and above the juniors. His juniors were promoted from time to time. He was superseded for several times and the respondents have not considered his representations. Thus, the action of the respondents is arbitrary and without any justifiable ground. The applicant deserves to be promoted

(D)

in the SC category as well as in the general category prior to his juniors were promoted.

5. In reply the learned counsel for the respondents argued that all the eligible Asstt. Foreman within the zone of consideration were considered by the DPC for promotion to Junior Works Manager, including the applicant and his juniors in the category of SC. The promotion from Asstt. Foreman to Junior Works Manager is by way of selection and only those employees in the zone of consideration and assessed by the DPC as fit with required bench mark good are promoted depending on the availability of vacancies. Applicant was also considered by the DPC held in 1998, but he was not found fit by the DPC based on his service records/CRs. He was not recommended by the DPC for promotion and he could not find a place in the promotion panel whereas his juniors who were assessed as Good and found fit for promotion were recommended and promoted to Junior Works Manager. The respondents further argued that the DPC again convened in 1999 to fill up the vacancies of JWM. At this time, the applicant was not in the zone of consideration. Therefore, he could not find a place in the promotion list which was published in 2000. However, again in 2000 another DPC was convened. Applicant was one among the candidates considered by the DPC held in 2000. But because at this time also, he was assessed by the relevant DPC and he got the bench mark Average only, whereas the minimum bench mark is good for promotion to JWM, being a selection post, again failed to find place in the promotion list. Hence, the applicant has been duly considered by the DPC. No irregularity or illegality is committed in the case of the applicant by the respondents.

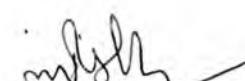


6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the applicant was considered by the DPC held in 1998. along with the all eligible Asstt. Foreman within the zone of consideration for promotion to Junior Works Manager, which included the juniors of the applicant in SC category. The promotion from Asstt. Foreman to JWM is by way of selection and only those employees in the zone of consideration and assessed by the DPC as Fit with required bench mark Good are promoted depending on the availability of vacancies. The applicant was not found fit by the DPC based on his service records and CRs. Hence, he was not recommended for promotion by the DPC and he could not find place in the promotion panel, whereas his juniors who were assessed as Good and found fit for promotion were recommended and promoted to JWM. The DPC again convened in 1999 to fill up the vacancies of JWM. At this time, the applicant was not in the zone of consideration. Thus, he could not find place in the promotion list which was published in 2000. Again in 2000 the DPC convened. The applicant was one among the candidates considered by the DPC held in 2000. But at this time he was assessed by the DPC and got the bench mark average only, whereas the minimum bench mark good is required for promotion to JWM, being a selection post. The applicant again failed to find a place in the promotion list. We have perused the original records produced on behalf of the respondents regarding the CRs of the applicant and the proceedings of the DPC. We find that the ~~claim~~ ^{of} ~~claim~~ ^{of} the respondents ^{by} ~~by~~ supported their documents which they have produced for perusal. The Hon'ble Supreme Court in the case of Amrik Singh Vs. Union of India & Ors., 2002 SCC (L&S) 888 has laid down that "Promotion - Selection- Adverse remarks - Single adverse remark in ACR within the period of consideration followed in subsequent years by good remarks and even categorisation as outstanding - Such adverse

remark, held, nonetheless relevant - Non-promotion on account of such a remark, held, not subject to judicial review - Nor can the court examine the correctness of such a remark." The Hon'ble Punjab & Haryana High Court in the case of Surjit Singh Vs. Union of India & Ors., 2004(2) ATJ 325, held that "High Court or Tribunal cannot sit in appeal over the selection made by the selection committee - No interference in the conclusion reached by the Expert Selection Committee." The matter of promotion of the applicant was duly considered by the relevant DPCs convened in the relevant and years/ after considering his service records and ACRs he was not found fit and was not given the promotion to the post of Junior Works Manager.

7. In view of the aforesaid, we are of the considered opinion that the applicant has failed to prove his case and the Original Application is liable to be dismissed as having no merits. Accordingly, the original Application is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

"SA"

प्रबंधन सं. ओ/न्या..... जलमुक्ति, दिल्ली
प्रतिलिपि अध्येता :-
(1) सचिव, उच्च व्यायालय कार एसोसिएशन, दिल्ली
(2) अधेक श्री/श्रीमती/व्यक्ति.....
(3) प्रवार्ती श्री/श्रीमती/व्यक्ति.....
(4) विधायक, राज्यपाल, राज्यानुर व्यापारी व सूचना एवं आवश्यक कार्यवाही देतु

Shri K. S. Ballal HC/JB
Shri P. Shonkaran
1/2/2004

उप संसदीय
10/7/04

Issued
on 10.9.04
On