

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 885 of 1998

Jabalpur, this the 30th day of September, 2003

Hon'ble Shri Anand Kumar Bhatt, Administrative Member
Hon'ble Shri G. Shanthappa, Judicial Member

D.N. Sen, S/o. Late G.C. Sen,
aged about 53 years, Daftari,
A/c. No. 8311542, P.A.O.-GRC,
Signals, Jabalpur-482001.

... Applicant

(By Advocate - Shri B.L. Nag)

V e r s u s

1. The Union of India, through,
Controller General of D/Acs. (West),
R.K. Puram, New Delhi, - 66.
2. Controller of Defence Accounts, (C),
177, Civil Line, Nagpur.
3. The Senior Officer (Accounts)
Incharge, P.A.O. (ors) Jak Rifles,
Jabalpur, 482 001.
4. The Controller of Defence
Accounts, Jabalpur.

... Respondents

(By Advocate - Shri B.da.Silva)

O R D E R

By Anand Kumar Bhatt, Administrative Member -

This Original Application is about grant of higher scale of pay as per the In-Situ promotion scheme with effect from 01.01.1993 or in ^{the} alternative to consider any other promotion in consideration of his eligibility and acquiring higher qualification of higher secondary examination passed during his employment. He has also requested for a direction for quashing the orders conveyed through documents Annexure A-1 and Annexure A-2 in respect of cancellation of In-Situ Promotion and awarding of stagnation increment.

2. The facts of the case in brief are that the applicant was first posted in the Dandakaranya Project and after being decla-

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red surplus from there he was posted in the PAO (Ors.), JAK Rifles, Jabalpur, from 08.11.1968. He passed the higher secondary school certificate examination in the year 1980-81. He was promoted to the post of Daftary from 19.11.1987. The applicant was found stagnating in the maximum pay of Rs. 1,025/- from 01.01.1992.

3. As per the In-Situ promotion scheme of career advancement of Group-C and Group-D employees, those who have not been promoted on regular basis even after one year on reaching the maximum of the scale of such post, are to be given ^{In-Situ} promotion to the next higher scale available to them. The competent authority granted In-Situ promotion from 01.01.1993 in the scale of Rs. 825-900/- and fixed his pay at Rs. 1,060/-. This was not a functional promotion and the same was cancelled on 01.12.1993 for the reasons that the applicant's case does not fall within the provisions and scope of In-Situ promotion. The applicant came in OA No. 889/1993 before the Tribunal and the cancellation of his non-functional promotion was cancelled because proper procedure of giving show cause notice was not followed. Vide Tribunal order dated 14.08.1996 the order of reversion was quashed and the respondents were given liberty to proceed with the applicant in accordance with law. Accordingly a proper notice was given to the applicant for cancellation of the In-Situ promotion which was done vide order dated 22.11.1996 (Annexure A-1).

4. The grounds taken by the applicant are that the denial of In-Situ promotion is arbitrary and contrary to ^{the} statutory rules and based on the mis-interpretation and mis-understanding of the same. In the oral submissions also it was stated that the applicant should be considered for second promotion under the In-Situ promotion scheme, as per the Vth Pay Commission report.

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5. The respondents on the other hand have stated that In-Situ promotion scheme was available in the case of non-promotion. However in this case the applicant had joined as Peon on 08.11.1968 in the scale of Rs. 70-85 and was promoted as Daftary with effect from 21-10-1987 in the scale of Rs. 775-1025. He was erroneously granted In-Situ under the Career Advancement Scheme with effect from 01.01.1993 in the scale of Rs. 825-1200. As the applicant was already promoted from Peon to Daftary grade, his case does not fall within the ambit of the provisions contained in Part-2 of Ministry of Finance OM dated 13.09.1991.
6. We have seen the pleadings on both the sides and considered the case of the applicant in the light of the instructions for In-Situ promotion. We have also heard the learned counsel for the parties at some length.
7. We agree with the respondents that in view of the fact that as the applicant was already promoted from the post of Peon to that of Daftari, he would not be entitled to the In-Situ promotion scheme. This promotion scheme is available for giving at least one promotion in the service career of such Group-C and Group-D employees who suffered on account of abolition of selection grade in Group-C and Group-D cadres as a result of recommendation of the IVth Central Pay Commission. This was awarded so that such employees may get atleast one promotion in their service career. The case was earlier heard in the Tribunal and the order of cancellation of In-Situ promotion was quashed on the technical ground only and now that the technical mistake has been rectified by the Department by issuing a proper show cause notice and consideration of the reply of the applicant, We do not think that now the Department can be faulted. As regards stagnation in increments, 2 stagnation increments he has got, has been given to him by the respondents as per the rules. The applicant was promoted to the post of Daftari on 21.10.1987 and ^{in case} therefore he
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is due for promotion to the next grade under the ACP scheme, ^{he} he may represent to the competent authority in this regard and it is hoped that the competent authority would decide the matter within a reasonable time.

8. So far as the present Original Application is concerned, we do not find any merit and the same is accordingly, dismissed. No costs.

(G. Shanthappa)
(G. Shanthappa)
Judicial Member

(Anand Kumar Bhatt)
(Anand Kumar Bhatt)
Administrative Member

पृथक्करण सं ओ/न्या. 2654 जयलपुर, दि.
प्रतिनिधि आदेश दिनांक

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BL Nag Ach
B klasika Ach

(M. Vasudeva)
उप सचिव 3/10/03

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