

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 166 of 2000

Jabalpur, this the 19th day of February, 2004

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

K.K. Dubey, Aged 47 yrs., Son of
late D.P. Dubey, Fitter Auto (S.K.)
M.T. Division, Central Proof
Establishment, Itarsi.

... Applicant

(By Advocate - Shri S.K. Nagpal)

V e r s u s

1. The Union of India, Through :
The Secretary, Ministry of
Defence, DHQ, PO New Delhi-
110 011.
2. The Director General of Quality
Assurance, Department of Defence
Production (DGQA/Adm12A),
Ministry of Defence, DHQ PO,
New Delhi - 110 011.
3. The Commandant, Central Proof
Establishment (DGQA Orgn, Itarsi
(M.P.)).
4. Sri Radha Lal, Fitter Auto
(HS-II), Equipment Section,
Through : Commandant, Central
Proof Establishment, Itarsi
(M.P.).

... Respondents

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant
has sought the relief to quash the impugned order dated
14th May, 1998 in respect of the promotion of respondent No.
4 to Fitter Auto (Highly Skilled Grade-II) and to promote the
applicant to Fitter Auto (Highly Skilled Grade-II) with
retrospective date i.e. from 14th May, 1998 with all
consequential benefits.

2. The brief facts of the case are that the applicant

was initially appointed as Vehicle Mechanic on 31.05.1982. The same post has been re-designated as Fitter Auto on 21.12.1985. According to the applicant he is senior most amongst the qualified candidates for next higher grade of Fitter Auto (Highly Skilled Grade-II). This post is not reserved either for scheduled caste or scheduled tribe candidates. The applicant has been considered for the next higher promotion alongwith the respondent No. 4 who is junior to the applicant. The grievance of the applicant is that he has been ignored for promotion to the next higher grade, whereas the respondent No. 4 who is junior to him has been promoted to the higher post. Aggrieved by this the applicant has filed this Original Application claiming the aforesaid reliefs.

3. The respondents in their reply have stated that on the basis of the performance and recommendations of the DPC the respondent No. 4 has been assessed suitable and has been promoted. They have also submitted that as per the policy guidelines the word fitness comprises of performance, attendance, discipline and integrity in the existing grade. The trade test alone does not make an individual fit for promotion. The respondents have also enclosed with their reply Annexure R-2 and Annexure R-4. Annexure R-2 is a document, wherein the officer under whom the applicant was working has given his recommendation for consideration of the applicant. While giving his recommendation he has assessed him below average. Annexure R-4 is a document, where a note has been recorded which states that the applicant attempts to shirk work and he has also been told to work with diligence and obey orders. The performance of the applicant is below average. Thus he has not been considered by the DPC for promotion to the higher post.



4. Heard the learned counsel for the parties and perused the records carefully.

5. We have also considered the rival contentions made on behalf of the parties. We find that the applicant is senior to the respondent No. 4. We also find that there is nothing adverse against the applicant except the note recorded by the officer at Annexure R-2 and Annexure R-4, at the back of the applicant. Nothing adverse has been communicated to the applicant and the applicant has been superseded without giving an opportunity of hearing and without following the principles of natural justice. The action taken by the respondents in promoting the junior to the applicant is highly deplorable and is against the rules, instructions and law.

6. We therefore, direct the respondents to consider the case of the applicant for promotion to the next higher grade of H.S. Grade-II with reference to the date his junior has been considered, by holding a review DPC ~~and promote the~~ ^{the} applicant in accordance with rules and law within a period of three months from the date of receipt of copy of this order. In case the applicant is found suitable he should be promoted and granted all consequential benefits.

7. Accordingly, the Original Application stands disposed of. No costs.

G. Shanthappa
(G. Shanthappa)
Judicial Member

m.p.s
(M.P. Singh)
Vice Chairman

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issued on 5.5.04