

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 194 of 1999

Jabalpur, this the 5th day of February, 2004

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

Shri AO Koshy, S/o. Shri Oommen
Chacko, aged 54 years, Assistant
Manager (Stock & Control),
Security Paper Mill, Hoshangabad,
Bhopal (MP).

... Applicant

(By Advocate - Ku. P.L. Shrivastava on behalf of Smt. S. Menon)

V e r s u s

1. Union of India,
Through : Secretary,
Ministry of Finance,
Govt. of India,
New Delhi.
2. The General Manager,
Security Paper Mills,
Hoshangabad (MP).
3. Shri Rampal Singh, Deputy
Manager (Procurement), Security
Paper Mills, Hoshangabad. ... Respondents

(By Advocate - Shri Bda. Silva for the official respondents)

O R D E R

By G. Shanthappa, Judicial Member -

The above Original Application is filed seeking the relief for quashing the notification dated 20th July, 1998 (Annexure A-18) and declare it an wholly illegal, inoperative and malafide and direct the respondents to consider the applicant for appointment to the post of Deputy Manager (Procurement) in the Security Paper Mill in the pay scale of Rs. 3000-4500/-.

2. The brief facts of the case as stated by the applicant presently are that the applicant is working/ as Assistant Manager (Stock & Control) under the respondents. One Shri P.K. Sharma was holding the post of Accounts Officer. The post of



Accounts Officer was upgraded as Deputy Manager (Finance) on recommendations of the NPC vide order dated 26.10.1992 and the post of Stores Officer had fallen vacant which was earlier occupied by Shri MLS Gangola and the charge was given to the applicant. Instead of upgrading the applicant being senior most as Deputy Manager (Procurement) in the grade of 3000-4500/-, the respondents for the reasons best known to them placed the applicant after upgradation to the post of Assistant Manager (Stock & Control) in the scale of Rs. 2200-4000/-. The said action is contrary to the upgradation scheme and therefore the applicant had filed OA No. 166/1994. In the said OA the applicant prayed that the adhoc services of the applicant as Store Keeper from 27.4.1991 to 6.2.1992 be regularised and that he be correctly upgraded to the post of Deputy Manager (Procurement) in the grade of Rs. 3000-4500/- at par with Shri P.K. Sharma. The applicant submits that, still the case is pending for consideration. Since the applicant is qualified for the post of Deputy Manager (Procurement) as per the recruitment rules, the respondents have not considered the case of the applicant, hence the action of the respondents is illegal and the impugned order passed by the respondents is not sustainable in the eye of law. The respondent No. 3 has been appointed as Deputy Manager (Procurement) in the pay scale of Rs. 3000-4500/- instead of giving the benefit to the applicant. The applicant has produced the notification for calling applications for filling up the post of Deputy Manager (Procurement) in the pay scale of 3000-4500/-. The eligibility condition is as follows :

"Eligibility condition : Officers of the Central/ State/Union territories Governments/Autonomous Organisations/Semi-Government Organisations/Public Sector Organisations holding analogous posts on regular basis, or with five years regular service in posts in the scale of pay of Rs. 2200-4000/- or equivalent or with eight years regular service in



posts in the scale of Rs. 2000-3500/- or equivalent and possessing (i) degree from a recognised University or equivalent, and (ii) 7 years experience in Materials Management."

According to the said notification the applicant is qualified and his case should be considered for the post of Deputy Manager (Procurement). The applicant submitted number of representations. The representations were not considered by the respondents. He had filed OA No. 169/1994, in which the Tribunal did grant the interim order of stay. It was observed that the appointment to the post of Deputy Manager (Procurement) is likely to be made against him and the applicant claims right to be appointed. Thus if any appointment is made the same shall be subject to the decision of this petition. The said application has been dismissed on 05.07.2001. Aggrieved by this the applicant has filed this original application claiming the aforesaid reliefs.

3. The respondents have filed the reply denying the averments made in the OA. The main contention of the respondents is that the OA is not maintainable, since the same applicant has filed OA No. 169/1994 claiming the same reliefs. The said OA was dismissed, and the applicant present has filed the present application. The application is also liable to be dismissed on the ground of principles of res-judicata. The respondents have also produced the notification calling for the applications for the post of Deputy Manager (Procurement). They have taken specific ground that the applicant is not qualified for the said post, as he has no ^{regular} requisite/servi^{ce} of seven years. As far as the post of Deputy Manager (Procurement) is concerned, the same has to be filled by promotion failing which by transfer on deputation failing both by direct recruitment. The incumbent in the cadre of Assistant Manager (Stock Control) has to put

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in minimum 5 years regular service for being considered for promotion to the post of Deputy Manager (Procurement). In addition, a Purchase Officer having 7 years regular service in the grade of Rs. 2375-3500/- will also be considered for promotion. The applicant is upgraded on adhoc basis with effect from 7.6.1993 in the feeder cadre of Assistant Manager (Stock Control). The applicant claims for upgradation to the post of Deputy Manager (Procurement) in the grade of ~~which~~ Re. 3000-4500/- at par with an unidentical cadre ~~is~~ ^{of} void of merits. Since the applicant was not qualified, his case was not considered. The respondent No. 3 has been appointed as Deputy Manager (Procurement) in Security Paper Mills, Hoshangabad, as he was qualified for the said post. Thus the application is liable to be dismissed.

4. Heard the advocate for the parties and perused the pleadings and the documents.

5. We have verified the notification calling for application for the post of Deputy Manager (Procurement). The eligibility conditions has been referred in the earlier paragraph. Under the said eligibility condition, whether the applicant is qualified or not, is the question involved in this case. To support his claim the applicant has produced his service particulars vide Annexure ---II to Annexure A-5. In the same at present the applicant was shown as upgraded to the lower post of Assistant Manager (Stock Control) in the grade of Rs. 2200-4000/- from 7.6.93 on adhoc basis, while he continued to hold the regular appointment as Stores Officer, a permanently existing post as upgraded vide Govt. order dated 26.10.92. Further in the service particulars he has mentioned that for Rs. 2200-4000/- from 7.6.1993, his case is pending for decision. His total service is 5 years

9 months in the present post as upgraded. According to the notification the applicant is not eligible for the post of Deputy Manager (Procurement) on the ground that he was not holding the post on permanent basis. Admittedly he was on adhoc basis. The applicant has submitted, that the respondent No. 3 has no qualification for appointment as Deputy Manager (Procurement). To support his claim the applicant has not produced any documents to show that he has no qualification for the said post. As on the date of the impugned order dated 20th July, 1998, the respondent No. 3 is eligible for appointment to the post of Deputy Manager (Procurement). Accordingly his case was considered for the said post. As the applicant had no qualification his case was not considered. We have carefully considered the case of the applicant on the basis of the facts submitted by him and also on the basis of the reply of the respondents alongwith the orders passed by this Tribunal in OA No. 169/1994. The applicant had already approached this Tribunal seeking the relief for regularisation of the period from 27.4.1991 to 06.02.1992 as Stores Officer and also to place him in the upgraded post of Deputy Manager (Procurement) granting the pay scale of Rs. 3000-4500/- at par with one Shri P.K. Sharma who was placed in the upgraded post of Deputy Manager (Finance). In his present OA the reliefs are little changed. But ultimately it appears that the reliefs sought in this OA are similar to the earlier OA No. 169/1994. In the present OA the respondent No. 3 is one Shri Rampal Singh who was appointed under the order dated 20th July, 1998. Since the applicant was not qualified he was not appointed as Deputy Manager (Procurement). Hence the applicant has not made out any case for grant of the reliefs as claimed in this Original Application.



6. Accordingly, the Original Application is dismissed.

No costs.

Ganayappa

(G. Shanthappa)
Judicial Member

WPS

(M.P. Singh)
Vice Chairman

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पूछांकन सं ओ/न्या..... जबलपुर, दि.....
प्रतिलिपि अच्छे हितः—

(1) सतिल, उच्च व्यापार व्यवसा, जबलपुर
(2) लोकेश्वर विधायिका, जबलपुर
(3) लक्ष्मी विधायिका, जबलपुर
(4) विद्युत, के व्यवसा, जबलपुर

Smt. S Mehta
B. Jagirdar

Bapimdar
12/2/104

I. Russell
2/2/104