

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 308 of 1999

Jabalpur, this the 6th day of February, 2004

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

Bhagwandeem Yadav son of Shri
Ram Khilawan Yadav, Aged about
41 years, working as Farm Hand
in Military Dairy Farm, Jabalpur
(M.P.).

... Applicant

(By Advocate - Shri Lalit Joglekar on behalf of Shri P.
Singh)

V e r s u s

1. Union of India, Through
Secretary, Ministry of
Defence, New Delhi.
2. Deputy Director General,
Military Farm Army Headquarters,
Block-3, R.K. Puram,
New Delhi.
3. The Director, Military Farm,
Central Command, Lucknow (UP).
4. The Officer-in-charge,
Military Farm, Jabalpur (MP).

... Respondents

(By Advocate - Shri Harshit Patel on behalf of Shri S.C.
Sharma)

O R D E R

By G. Shanthappa, Judicial Member -


The said Original Application is filed seeking the relief to direct the respondents Nos. 1 to 4 to promote the applicant as Machine Hand Gr. II with effect from the date of promotion of Bisan Singh Thakur, R. Rajsekharan Nair and Anandi Lal, to assign proper placement in the seniority list and to grant him all pecuniary benefits which may arise there from.

2. The brief facts of the case as stated by the applicant are that the applicant was appointed as Plant Operator on casual basis with effect from 15.3.1979. He was enrolled in

the employment exchange, Jabalpur and he had received the employment card meant for the post of Plant Operator. In the year 1980 to fill up the post of Farm Hand under respondent No. 4, unemployed youth was called from the employment exchange, Jabalpur. The respondent No. 4 has also called certain names for the post of Plant Operator i.e. a technical post. The applicant received an interview letter from the respondents for the post of Plant Operator. He was appointed on the basis of his meritorious performance, on 15.6.1984 alongwith one Shri R. Rajsekharan Nair, Bisan Singh Thakur and Anandi Lal. The respondent No. 1 to 4 have appointed the applicant on the post of Temporary Farm Hand in Group-D. All the said persons including the applicant were appointed on a non-technical post. The applicant claims that there was a legal obligation of the respondents to consider the case of the applicant for his promotion as Machine Hand Grade-II while considering the case of Bisan Singh Thakur, R. Rajsekharan Nair and Anandi Lal. The applicant submitted his application to the respondent No. 4 in the year 1988 with a request for promotion to the post of Machine Hand Grade-II on the ground that the applicant has also mentioned that he has already passed the trade test for MHC-III (Ref. Plant Operator). The respondent No. 2 had issued a circular, to hold a departmental trade test for Foreman, Asstt. Foreman, MT Driver, Tractor Drivers and other Industrial staff. The applicant had also successfully passed the trade test at Lucknow. Alongwith the said circular the respondents have annexed the result of the applicant as well as Shri Bisan Singh Thakur, R. Rajsekharan Nair and Anandi Lal. In the



said list of successful candidates Bisan Singh Thakur was shown as failed in the trade test. Shri R. Rajsekharan Nair was shown as passed in the ~~tr~~-ade test for Refrigeration Plant Operator (Skilled). One Shri Bhagwan Din has passed in the trade test for Refrigeration Plant Operator (Semi-Skilled). Even then the respondent No. 4 has illegally promoted Shri Bisan Singh Thakur and Shri R. Rajsekharan Nair as Machine Hand Grade-II, denying the claim of the applicant, by issuing the order dated 30.01.1990 (Annexure A-7). The applicant submitted the representation to the respondent No. 4 seeking certain information regarding his promotion to the post of Machine ^{Hand} ~~Grade-II~~ ^{Sgt.} in 1988 for which the respondent No. 4 has promptly replied the applicant vide letter dated 19.5.88, wherein the applicant was assured that his case for promotion/change of category shall be considered by the DPC at Military Farm Records/Army Headquarters. After receiving the said communication the applicant was hopeful for his promotion to the post of Machine Hand Grade-II but unfortunately the respondents have not passed any order in this regard nor the case of the applicant was placed before the review DPC. Shri Anandi Lal after having been aggrieved by the respondents in the similar fashion had approached this Tribunal by filing OA No. 350/91, which was decided on 1.10.1996, with a direction to the respondents to hold a review DPC within two months. The applicant had also filed OA No. 634/98 before this Tribunal and which was decided on 26.8.98 with the observation that certain other persons after passing similar trade test have been given promotion, but the claim of the applicant was ignored. The conduct of the



respondents does not appear to be reasonable and accordingly direction was given to consider the representation of the applicant and pass final orders within two months. The respondents have not taken any step to promote the applicant to the post of Machine Hand Grade-II and they have committed the contempt of the orders passed by the Tribunal. Since they have not taken any action, the applicant approached this Tribunal seeking the relief to consider his case at par with other persons as prayed in the OA.

3. Per contra the respondents have filed their reply denying the averments made in the Original Application. The specific contention of the respondents is that the applicant is not qualified as per the recruitment rules, therefore his name was not considered by the DPC for promotion. In view of the recruitment rules No. 353 issued by the Ministry of Defence, dated 4th November, 1975, the applicant is not entitled for any relief as prayed in the OA. The applicant was initially enrolled as a daily rated employee. He was converted into monthly rates of pay at Rs. 196/- per month plus usual allowances. In the year 1984 he was appointed on regular basis as temporary Farm Hand. On being selected as temporary farm hand in the Military Farm he was appointed to report for duty at Military Farm Depot, Saugor. The applicant ^{was to} join for duty by 6th July, 1984. The applicant accepted the offer and joined at Military Farm Depot, Saugor on 28th June, 1984.

3.1. Shri Bishan Singh Thakur and Shri Rajasekharan Nair passed the trade test for Ref. Plant Operator (Skilled).

The applicant also appeared in the said selection and

passed the trade test for Ref. Plant Operator (Skilled). As Bishan Singh Thakur and Rajasekharan Nair have already passed the trade test for Ref. Plant Operator (Skilled), they were considered by the DPC and on being found fit they have been promoted to the said post. As per the direction of this Tribunal a review DPC was held and Shri Anandi Lal was also promoted to the post of Ref. Plant Operator (Semi Skilled). The case of the applicant was also considered by the competent authority alongwith the DPC papers. According to the recruitment rule 353 dated 4th November, 1975, the educational qualification for Machine Hand Grade-II is VIIIth Pass. As per the service book of the applicant the applicant has passed only 2nd standard. As such he has not been found qualified to be considered by the DPC for promotion. Shri Anandi Lal has qualification of VIIIth standard and his case was considered for promotion to the grade of Ref. Plant Operator (Semi Skilled) by the DPC. Hence the applicant has no case and the OA is liable to be dismissed.

4. Subsequently the applicant filed the rejoinder clarifying the facts submitted by the respondents in their reply. The respondents have admitted that the applicant has also passed the trade test and the respondents have made wrong submission in paragraph 9 of the reply that the applicant has only qualified upto IIInd standard. In fact the applicant has passed the examination of IXth standard in the year 1975. To that effect he has produced the transfer certificate issued by the A.P. Narmada Higher Secondary School, Jabalpur. He has also submitted his representation to the respondents on 1.9.2001. The case

of the applicant is that he is qualified for the said post and the action taken by the respondents is illegal.

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

6. According to the relief of the applicant the respondents have shown discrimination among the applicant and other two persons Shri Bisan Singh Thakur and Shri R. Rajsekharan Nair. The qualification for the post of Machine Hand Grade-II was VIIIth standard. The applicant did not produce any document to show that he was qualified. He studied upto 9th standard. The respondents have considered the case of the applicant on the basis of the records which he had submitted at the time of joining the service. Since he was working, how he got the certificate from A.P. Narmada Higher Secondary School, Jabalpur for studying in class Xth in the year 1979 is not clear. Admittedly he was working as Plant Operator on casual basis with effect from 15.3.79. The transfer certificate issued by the school is dated 24.8.79. The applicant has no correct record to show that he was studying in Xth standard either at the time of joining the service or after joining the service. Since the respondents have considered the case of the applicant as per recruitment rules, we do not find any ground to interfere in the matter. Shri Bisan Singh Thakur and Shri R. Rajsekharan Nair have studied upto VIIIth standard, hence they were qualified. Accordingly the respondents have placed their names before the DPC and considered them fit to be selected. On the basis of the records with the respon-



(M.P. Singh)
Vice Chairman

पृष्ठान्कन सं ओ/न्या.....जबलपुर, दि.....

- (1) सचिव, जल्ला महापालिका, काठमाडौं, जल्लापुर
(2) आवेदन प्राप्त गर्ने स्थान, जल्लापुरको कार्यालय
(3) प्रत्येक स्थानीय तहको कार्यालय, जल्लापुरको कार्यालय
(4) संयोजक, जल्ला महापालिका, काठमाडौं, जल्लापुर
सचमा एवं जल्ला महापालिका, काठमाडौं, जल्लापुर

Byrnalas
उप निरीक्षक 12/2/84

P. Singh
SC Sharma

Fuzoel.
on
12-2-04