

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 26 of 1999

Jabalpur, this the 6th day of January, 2004

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

Shri Yashpal Singh Ravi,
S/o Shri Chota Ram,
aged about 38 years,
R/o B/4, S.P.M. Colony,
Hoshangabad(M.P.)

APPLICANT

(By Advocate - Smt. S. Menon)

VERSUS

1. Union of India,
through: the Secretary,
Ministry of Finance,
Department of Economic Affairs,
New Delhi.
2. The Joint Secretary(C&C),
Ministry of Finance, Department
of Economic Affairs, Currency
Branch, North Block, Central
Secretariat, New Delhi - 110 001.
3. The General Manager,
Security Paper Mill,
Hoshangabad(M.P.).
4. Shri M.A. Jafri,
Deputy Chief Engineer(F&I),
Security Paper Mill,
Hoshangabad(M.P.)

RESPONDENTS

(By Advocate - Shri B. da.Silva through Sh.Terence Burrows
for respondents 1 to 3.

Shri S.C.Sharma through Shri Harshit Patel
for respondent no.4

O R D E R (Oral)

By M.P.Singh, Vice Chairman -

In this case the applicant has claimed the following
main reliefs -

- "(i) Place the applicant in the upgraded post of
Dy.Chief Engineer (E&I) in the scale of
Rs.3000-4500 in accordance with the recommenda-
tions of the National Productivity Council, i.e.
Annexure A-3 and to grant all the consequential
and ancilliary service benefits.
- (ii) quash the notification dated 20.8.93/Annexure-A-4
and declare it as mala fide, improper and a total
mis-application and misinterpretation of the
recommendations of the NPC in the case of the
applicant.

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(iii) Quash the order of promotion of respondent No.4 to the post of Dy.Chief Engineer(E&I) W.E.F. October, 1998"

2. The brief facts of the case are that the applicant was initially appointed to the post of Engineer(E&I) in the scale of Rs.2200-4000 w.e.f.18.3.1991. Prior to 21.10.1992, the post of Assistant Manager (E&I) was known as Engineer (Electronics) in the scale of Rs.2200-4000. At the time of his selection through UPSC, the applicant was adjudged senior to Shri M.A.Jafri, respondent no.4. In the year 1982-83 the National Productivity Council (for short 'NPC') submitted its report and made its recommendations for the restructuring of the organisation. The Government had conveyed the approval of creation of 227 additional temporary posts vide order dated 26.10.1992. In so far as the unit of Electronics & Instrumentation is concerned, one post of Engineer (E&I) was upgraded and designated as Deputy Chief Engineer(E&I) and placed in the scale of Rs.3000-4500. There were 4 posts of Engineer (E&I) in the scale of Rs.2200-4000, out of which three posts were filled ^{and} and were officiated by S/Shri M.Narayana Swamy, Jaya Singh and A.K.Saha. In so far as the 4th post was concerned, it was vacant in the year 1980. Shri M.Narayana Swami worked upto 25.8.1984 and thereafter the post fell vacant and Shri Jaya Singh worked upto 2.12.1987 and thereafter the said post became vacant. Shri A.K.Saha worked till 27.12.1988 and thereafter the post fell vacant. All the three incumbents had left the organisation and thus four posts became available in the year 1990. Out of these four posts, the 1st post was filled up by the applicant. According to the applicant, the NPC had recommended the 1st post of the Engineer((E&I) to Dy.Chief Engineer(E&I) in the scale of Rs.3000-4500 and so far as the 2nd post was concerned, it came to be re-designated as Assistant Manager(E&I) in the scale of Rs.2200-4000. The other two posts of Engineer were abolished. According to the applicant the respondents have taken action to upgrade the 2nd post of Engineer(E&I) as ~~Dy.Chief Engineer(E&I)~~ ^{Dy.Chief Engineer(E&I)} in

the scale of Rs.3000-4500 which was redesignated as Dy.Chief Engineer.

3. According to the applicant, when the posts were upgraded the employees holding those posts stood upgraded automatically . It had no relevance whatsoever with the qualification, as holder of the post was already performing the said job which was evaluated by the expert committee. According to the applicant, as he was the senior most person in the grade of Assistant Manager, he ought to have been upgraded to the post of Dy.Chief Engineer (E&I) but the respondents have not appointed him against the said post. Hence he has filed this O.A. claiming the afore-mentioned reliefs.

3. The official-respondens as well as private-respondent no.4 in their replies have stated that in order to modernize the Security Paper Mill, Hoshangabad a number of new posts were created in various categories. Prior to implementation of the NPC report, E&I section had a sanctioned strength of four posts of Engineer in the pay scale of Rs.2200-4000 and with the implementation of the NPC recommendation, one post of Engineer has been upgraded as Dy.Chief Engineer(E&I) in the scale of Rs.3000-4500 (pre-revised), one post has been redesignated as Assistant Manager in the scale of Rs. 2200-4000; and one post of Technical Officer(E&I) in the scale of Rs.2375-3500 has been newly created and two posts of Engineer(E&I) in the scale of Rs.2200-4000 have been abolished. Therefore, the present set up of the Electronics & Instrument Section is as follows- one Dy.Chief Engineer(Rs.3000-4500), one Asstt. Manager (Rs.2200-4000) and one Technical Officer(Rs.2375-3500). The recruitment rules for newly created/re-designated post have been published in the Gazette of India on 31.5.1997, ^{with} ~~according to which~~, ² For the post of Dy.Chief Engineer(E&I) the method of recruitment is by promotion/transfer on deputation, and initially the post was required to be filled

by method of promotion from the existing regular incumbents of the erstwhile post of Engineer(E&I). Accordingly the departmental Assistant Manager(E&I)(erstwhile Engineers(E&I)) possessing a degree in Electronics & Instrumentation/ Electrical Engineering as a subject of study from recognised university or equivalent, with five years regular service in the grade were considered along with outsiders. The applicant being only a diploma holder did not fulfil the above requirement, hence he could not be considered for appointment to the post of Dy.Chief Engineer(E&I). The respondent no.4 being a degree holder and fulfilled^{ing} the eligibility criteria has been considered and appointed to the post of Dy.Chief Engineer(E&I) on the recommendations of the DPC. In view of the foregoing, it is contended, by the respondents, that the OA is bereft of merits and is liable to be dismissed.

4. In the rejoinder, the applicant has stated that he is entitled to receive equal treatment as has been allowed to all other officers upgraded under the recommendations of the NPC from 21.10.1992, specially at par with Shri P.K.Sharma, Accounts Officer (2375-35000 (Group-B) upgraded as Dy.Manager (Finance)(3000-4500) (Group-A). It has been submitted by the applicant that said Shri P.K.Sharma possessed the qualification of B.Com only but he was upgraded while the post of Dy.Manager(Finance) as per the recruitment rules requires M.Com degree. Therefore, following the case of Shri P.K.Sharma, the explanation given by the respondents is wholly devoid of substance. If Shri P.K.Sharma who did not possess the requisite qualification as per the rules, was confirmed and was upgraded, there seems to be no reason as to why the applicant could not have been conferred with the benefit of upgradation. The applicant has further submitted that one Shri A.K.Ghosh, Chief Chemist(3000-4500) was upgraded to Manager(Quality Assurance)(3700-5000),

A.P.Nemade, Artist Engraver(2375-3500)(Group-B) to Assistant Works Manager (Watermark design) (2200-4000) (Group-A); Shri V.P.Tiwari Safety Officer (2375-3500) (Group-B) to Assistant Manager (Safety)(2200-4000)(Group-A).

In the case of Shri I.L.Joshi, who is the senior most amongst the Dy.Chief Engineers, for promotion to the higher post of Chief Engineer(3700-5000) degree was required and the said Shri Joshi acquired the degree only in the year 1995. The applicant has, therefore, submitted that he could have also been treated similarly. The applicant has further submitted that the diploma with 3 years service is equated with degree in the post of Engineer. In any case if it could not have been treated as such, the applicant is otherwise entitled for a reasonable notice or opportunity of acquiring a higher qualification when insisted upon. It is also worth noting that for the post of Works Manager (3700-5000) of SPM, the qualification was M.Sc in the earlier rules which has been reduced to B.Sc./ Diploma in the new set of rule to accommodate existing senior incumbents and on the other hand the applicant has been meted out with a discrimination and vindictive treatment and consideration without assessing the actual job performance and skill in his case. It has also been stated by the ^{applicant} respondents that protection clause should have been given in the new recruitment rules to safeguard the interest of the existing incumbents.

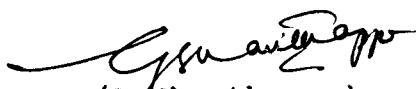
5. We have considered the elaborate arguments advanced by the learned counsel for the parties. We have also gone through the pleadings available on record.

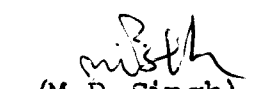
6. We find that the qualification for the post of Assistant Manager is Degree or Diploma with three years' service. In the rejoinder, the applicant has stated that the educational qualification was relaxed in the case of

Shri P.K.Sharma, Accounts Officer, who was promoted as

Dy. Manager (Finance), and others as mentioned in his rejoinder. The respondents in their additional reply filed on 2.7.2001 to the rejoinder, have not specifically controverted the above averments of the applicant. Therefore, we find that the applicant has been discriminated as he has not been considered/appointed to the upgraded post of Dy. Chief Engineer. The fact that the applicant was the senior most and was senior to respondent no.4, has not been denied by the respondents and the applicant has been ignored while considering the case of respondent no.4 for promotion to the post of Dy. Chief Engineer merely because he did not possess the educational qualification of degree at the time of upgradation; nor any saving clause was incorporated in the recruitment rules to safeguard the interest of the applicant, who has already been working in a Group-A post. In the circumstances, we find that the ends of justice would be met if we direct the respondents to consider the case of the applicant for the upgraded post of Dy. Chief Engineer by getting the qualification relaxed from the appropriate authority as has been done in the case of said Shri P.K. Sharma Accounts Officer and other persons as named in the rejoinder.

7. In the result, the O.A. is partly allowed. The respondents are directed to consider the case of the applicant for upgradation to the post of Dy. Chief Engineer by getting the qualification relaxed from the appropriate authority within a period of three months from the date of communication of this order. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman