

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.31/2000

Jabalpur, this 23<sup>rd</sup> day of January, 2004

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

D.V.Jayakumar,  
s/o Late Sh. Vedamruthem,  
OCCU:Chargemen Grade II,Tech.&Mech.  
Ordnance Factory,  
Itarsi.

...Applicant

(By Advocate: None)

-versus-

Union of India through

1. Secretary,  
Ministry of Defence,  
New Delhi.
2. General Manager,  
Itarsi.
3. K.L.Pilai,  
OCCU: Chargemen Grade II,  
Ordnance Factory,  
Itarsi (M.P.).

...Respondents

(By Advocate: Shri P.Shankaran)

O R D E R

By Shri G.Shanthappa, Judicial Member -

The above O.A. is filed seeking the relief to direct the respondents to award the applicant his due and proper seniority and place him above respondent no. 3 in the seniority list which forms the basis of promotion or alternatively the respondents be directed to modify the seniority list (Annexure A-8) and place the applicant at sl. no. 11 i.e. above respondent no. 3.

2. The brief facts of the case are that the applicant was initially appointed in Heavy Vehicles Factory as



Machinist on 6.4.1996 after completion of Apprenticeship from 1973-74. Thereafter the applicant had completed his Diploma in Mechanical Engineering in 1980. The applicant is a direct recruit under the respondents.

3. The respondents' department with the view to give appropriate post to better qualified departmental candidates had issued a circular dated 6.1.1981 and on the basis of the order dated 24.7.1980 through HVF Circular No. 27, has provided that those departmental candidates who are in lower cadres but with higher educational qualifications would be considered for appointment in supervisory cadres. The applicant was directed to appear for written test on 17.2.1981. Thereafter the personal interview was conducted on 18.3.1981. The applicant had successfully passed the test and thus he was offered an appointment as Supervisor 'B' vide order dated 7.4.1982. After appointment as Supervisor 'B' the applicant was transferred from HVF through factory order Part II No. 813 dated 19.4.1982 in public interest alongwith T.A. plus D.A.

4. The respondents have prepared a seniority list on 31.3.1985 wherein the applicant has been shown to be the juniormost to all the existing promotees. The respondents have wrongly placed the applicant as most junior in the seniority list though he joined at the present post on 28.4.1982, still he <sup>is</sup> ~~was~~ shown junior to those who joined on 11.6.1982 i.e. sl.no.10, 4.6.1982 i.e. sl.no.14, 22.10.1982 i.e. sl.no. 17,18,19 and 21; 9.5.1983 i.e. sl.no.22 and 22.10.1984 i.e. sl. no. 29. Against the wrong fixation of seniority, the applicant submitted his representation but thereafter no seniority list was published by the respondents.



...3...

Hence the applicant is entitled to his due seniority in view of the date of joining i.e. 28.4.1982 to be placed somewhere between sl. no. 10 and 11 in the gradation list published by the respondents.

5. Subsequent to the representation made by the applicant, the applicant was promoted alongwith others in the same manner and chronological order on the post of Chargemen <sup>but</sup> Grade-II/without considering the credibility to the genuine representation of the applicant the respondents published the seniority list. Even in the subsequent seniority list also the applicant is placed as juniormost to the persons who had joined later. Thus, the action of the respondents in placing the applicant as juniormost is illegal and arbitrary and the applicant is entitled to the relief, as prayed for, in the O.A.

6. Per contra, the respondents have filed their reply denying the averments made in the OA. The specific case of the respondents is that the applicant is a direct recruit and he was appointed as Machinist 'C' on 6.4.1976 and thereafter he was appointed as Supervisor (TECH/MECH.) on 28.4.1982 against 20% direct recruitment quota while respondent no. 3 was appointed as Machinist 'C' on 26.8.1976 and thereafter he was promoted to Supervisor (Tech/Mechanical) on 9.5.1983 against 80% promotion quota. He was also appointed by transfer to the post of Chargemen Gr.II(Tech./Mech.) w.e.f.10.05.1993. As per the Statutory Rules and Orders <sup>SRO-</sup>282 of 1973 vacancies of Supervisor (Mech.) were to be filled up in the following manner :-

- a) 20% by direct recruitment, and
- b) 80% by promotion.



7. While preparing the seniority list for the post of Supervisor 'B' Grade (Technical/Mechanical) during 1985 by the respondent no. 2, the rota quota of 4:1 between the promotees and direct recruitees as provided in the aforesaid SRO 282 of 1973 as well as the seniority rules in existence were strictly adhered to while preparing the seniority list. In the said seniority list, the third respondent being a promotee, was placed at serial no. 22 as he was holding the post on 9.5.1983. The name of the applicant is placed at serial no. 32 because of the fact that he was holding the post on 28.4.1982 and belonged to direct recruits. Hence the claim of the applicant is misconceived and he is not entitled for the relief, as prayed for in the O.A.

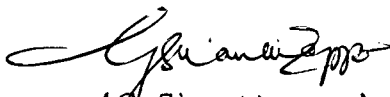
8. Subsequent to filing the reply, the applicant has submitted his rejoinder stating that the applicant was directly recruited by the Chairman, Ordnance Factory Board against 20% quota through written test and interview conducted in March, 1981. So that 20% vacancies must be existing either at the time of publication of advertisement for applications or at the time of joining. In such a situation 20% vacancies must be for the year 1981 or 1982. The applicant was appointed as Supervisor (Tech./Mech.) on 28.4.1982 against 20% direct recruitment quota. He must have been adjusted against 80% promotees of 1982 only but not with the 80% promotees of 1983 and 1984. The applicant in support of his claim places reliance on the SRO 282 of 1973.

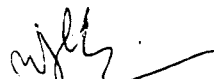
9. We have heard the learned counsel for both the parties and have carefully considered the pleadings on record and submissions made by the counsel on either side.

10. The case of the applicant is that his case has not been considered for promotion at serial no. 11 that too above the third respondent. The respondents have not

followed the procedure laid down under SRO 282 of 1973 while preparing the seniority list. Admittedly, the applicant belongs to direct recruitee but the third respondent belongs to promotee quota. As per the ratio case of the prescribed under SRO 282 of 1973 the applicant cannot be compared with the promotees quota. Hence, the applicant cannot seek the relief for promotion by placing his name above the third respondent. Therefore, the respondents have correctly and properly prepared the seniority list and the contention of the applicant is thus not tenable in the eyes of law as the applicant has failed to prove his case for grant of relief as prayed for in the O.A.

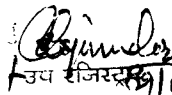
11. With the above observation, the O.A. is dismissed with no order as to the costs.

  
(G. Shanthappa)  
Judicial Member

  
(M.P. Singh)  
Vice-Chairman

/na/

*Filed*  
*29-1-04*

पृष्ठान्त सं ओ/न्या.....जबलपुर, दि.....  
पुनर्विचार आदेश पत्र -  
(1) सचिव, उच्च न्यायालय एवं उच्च न्यायालय, जबलपुर  
(2) उच्च न्यायालय एवं उच्च न्यायालय के काउंसल P. Verma.  
(3) उच्च न्यायालय एवं उच्च न्यायालय के काउंसल P. Shankar Moh.  
(4) उच्च न्यायालय एवं उच्च न्यायालय के काउंसल  
सूचना एवं आचार्य काउंसल  
  
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