

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

original Application No. 382 of 2000

Jabalpur, this the 20th day of January, 2004

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

Shri Laxmi Prasad Banjare,
S/o. Shri Mohit Ram Banjare,
aged 40 years, R/o. III/87,
TTC Colony, Ridge Road,
Jabalpur.

... Applicant

(By Advocate - Smt. S. Menon)

V e r s u s

1. Union of India, through :
Secretary, Department of
Telecommunication, New Delhi.
2. Chief General Manager, Technical
& Development Circle, Sanchar
Vikas Bhawan, Jabalpur.
3. Smt. P. Kamala Iyer, Stenographer
Grade-II, PA to General Manager
(W), T&D Circle, Jabalpur.
4. Shri U. Chandrasekharan,
PA to General Manager (SN),
T&D Circle, Jabalpur.

... Respondents

(By Advocate - Shri B.da.Silva for official respondents)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has
claimed the following main reliefs :-

"(1) Direct the respondents to consider the case of
the applicant for promotion to the post of Stenographer
Grade-II w.e.f. 1.5.1991 and/or direct the respondents
to alter the date of regularisation of the applicant on
the post of Stenographer Grade-II as has been done in
the case of respondent No. 4 and/or quash the order
dated 7.5.1997/Annexure A-10"

2. The brief facts of the case as stated by the applicant
are that the applicant was appointed as Stenographer Grade-
III in the Telecom Circle with effect from 02.05.1986. As per
the recruitment rules for promotion to the next higher grade



completed
of Stenographer Grade-II, the applicant should have 5 years
continuous
of service in Stenographer Grade-III. The applicant has
completed 5 years of service on 2nd May, 1991. The DPC for
filling up of one post of Grade-II Stenographer was held on
March, 1991 and the applicant was short by two months service
for being eligible to be considered for the post of
Stenographer Grade-II. According to the applicant the
instructions issued by the DOP&T on 10.07.1990 provides as
follows :


".....
In the matter of diversion of reserved promotion quota
vacancies for direct recruitment and vice versa in the
circumstances mentioned above, the Ministry/Departments
may themselves exercise the powers for relaxations, even
in respect of Group A & B posts, subject to the approval
of the UPSC.

However if the candidates belonging to SC or ST
are likely to become eligible for promotion in the near
future, it may be preferable to keep the reserved vacan-
cy unfilled till that time, rather than diverting the
vacancy for direct recruitment of the candidates from
outside."

The grievance of the applicant is that since these instruct-
ions/guidelines issued by the DOP&T provide that in case a
candidate belonging to SC or ST is likely to become eligible
for promotion in the near future, it is preferable to keep
the reserve vacancy till that time. The respondents have not
followed these guidelines and instead held DPC in March 1991,
ignoring the claim of the applicant who became eligible in
May 1991. Aggrieved by this the applicant has filed this
Original Application claiming the aforesaid reliefs.

3. Heard the learned counsel for the parties and perused
the records very carefully.


4. The learned counsel for the applicant has stated that the
applicant
[has completed 5 years of service and became eligible on 2nd
May 1991 and in view of the instructions issued by the DOP&T
the vacancy for Stenographer Grade-II should not have been



filled up by holding DPC in March, 1991. She has also pointed out that the applicant was senior to Mr. Chandrasekharan and Chandrasekharan should not have been placed above the applicant by the DPC held in November, 1991. The applicant should have been considered and promoted to the post of Stenographer Grade-II ⁱⁿ May 1991 itself against the reserved vacancy.

5. On the other hand the learned counsel for the respondents states that the applicant became eligible after putting five years service only on May, 1991. Therefore he was not eligible to be considered for the vacancy arising in the year 1990. Moreover the applicant cannot claim for promotion immediately on completion of 5 years of service in Stenographer Grade-III. He has also stated that the DPC held by them on November, 1991 for considering promotion of the candidates for the three posts of Stenographer Grade-II, recommended 3 persons for promotion in the order of seniority. Their names are; 1) Shri L.P. Banjare, 2) Shri U.C. Sekharan and 3) Smt. K. Vijayamma. As per the select list of 1991 Shri U.C. Sekharan who was senior to the applicant was shown junior to the applicant. This mistake was detected and later on a review DPC was held on 20.12.1995. In the review DPC the mistake committed by the earlier DPC was rectified and Mr. U. Chandrasekharan who was shown at serial No. 2 was placed at Serial No. 1 in the select list for promotion to the post of Stenographer Grade-II.

6. We have very carefully considered the rival contentions and the pleadings. We find that the applicant was appointed as Stenographer Grade-III in May, 1986 and as per recruitment rules he had completed 5 years of service to be eligible for being considered for promotion to Stenographer Grade-II only




in May, 1991. The DPC for three posts of Stenographer Grade-II held on 22.11.1991 has placed the applicant at serial No. 1 in the select list, which was a mistake. The same has been rectified by holding a review DPC on 20.12.1995. The review DPC proceeding held on 20.12.1995 states as under :


"The inference is that the two senior most officials in OC category namely Shri U. Chandrasekharan & Smt. K. Vijayamma were found fit. The only SC official eligible namely Shri L.P. Banjare was also found fit by the DPC for promotion. As per provisions of para 7 of OM Nos 22011/5/86-Estt (D) dtd. 10.4.1989 and provisions of OM No. 27/2/71-Est (SCT) dtd. 27th November, 1972, as amended by OM No. 36021/7/76-Est. (SCT) dtd. 25th February, 1976; the combined select list will be in order of seniority in feeder cadre and will be as follows :

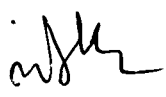
1. Shri U. Chandrasekharan
2. Smt. K. Vijayamma
3. Shri L.P. Banjare."

The mistake has been rectified. We also find from the DPC proceedings that Chandrasekharan was appointed to the Grade-III Stenographer on 30.09.1982, whereas the applicant was appointed on 02.05.1986. Therefore it is clear that the applicant was junior to Mr. Chandrasekharan. As per the DPC guidelines if an employee makes the bench mark for promotion to a post of Group-B or Group-C category, there is no supersession. Therefore by any stretch of imagination, the applicant could not have been placed above Mr. Chandrasekharan, once Mr. Chandrasekharan has obtained the minimum bench mark for promotion to the post of Stenographer Grade-II. In view of the reasons recorded above, we do not find any infirmity in the order passed by the respondents at Annexure A-10, dated 7th May, 1997.



7. Hence, for the reasons recorded above the Original Application is bereft of any merit and the same is dismissed. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

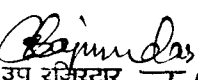
"SA"

पृष्ठान्न सं ओ/का.....नवकापुर, दि.....

पत्रिदिदिप.....

- (1) सविन, ओ/का.....नवकापुर
- (2) ओ/का.....काउंसल Smt. S. Menan
- (3) ओ/का.....काउंसल B. daswase, Adv.
- (4) ओ/का.....

सूचना एवं आवश्यक कार्रवाई हेतु


उप रजिस्ट्रार 11/2/04

*Filed
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11-2-04*