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Central Administrative Tribunal
Jaipur Bench, JAIPUR

ORDERS OF THE BENCH

7th September, 2009

OA. 138/2005

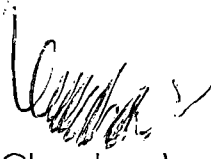
Present: Shri Rajendra Vaish counsel for applicant
Shri D.C.Sharma, counsel for respondents

Heard counsel for applicant.

For the reasons to be dictated separately the OA shall stand
dispose of.

The departmental records, as produced by the respondents,
are handed over to the respondents' counsel in open court.


(B.L. Khatri)
Member (Administrative)


(M.L. Chauhan)
Member (Judicial)

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Central Administrative Tribunal
Jaipur Bench, JAIPUR

OA138/2005

This the 7th day of September, 2009

Hon'ble Shri M.L. Chauhan, Member (Judicial)
Hon'ble Shri B.L. Khatri, Member (Administrative)

1. N.K.Janjani Son of Shri T.R. Janjani,
Aged 40 years, Resident of 5-DA-17,
Rajasthan Housing Board, Shastri Nagar, Jaipur.
2. Om Prakash Kharol Son of Shri Ram Dayal,
Aged 38 years Resident of II/38, G.S.I, Colony,
Malviya Nagar, Jaipur, Both working as Assistant
Store Keeper (Tech.) at O/o G.S.I. Western Region,
Jaipur(Rajasthan)

...Applicants

(By Advocate: Shri Rajendra Vaish)

- V E R S U S -

1. Union of India through Secretary Mines, Scretariat,
New Delhi-302001
2. Dy. Director Genera, Geological Survey of India,
Western Region, Jhalana Doongri, Jaipur-302015.
3. Shri Manohar Lal, Assistant Store Keeper (Tech.) O/o D.D.G.
G.S.I., Jaipur
4. Shri Kalyan Mal Meena, Assistant Store Keeper(Tech.)
Both working at O/o D.D.G. G.S.I, Western Region.
Jaipur through Dy. Director General, Geological Survey of
India, Western Region, Jhalana Doongri, Jaipur-302015.

.....Respondents

(By Advocate: Shri D.C.Sharma)

ORDER (ORAL)

In this case grievance of the applicant is regarding promotion
of Respondent No.3 and 4 retrospectively w.e.f. 6.12.2000 vide order


dated 27.3.2003(Annexure A-4) on the ground that there^{was} no vacancy available at the relevant time.


2. On the other hand stand taken by the department was that two posts of Assistant Store Keeper meant for SC and ST category were lying vacant since 1998, with a view to fill up the short fall, DPC was held on 5.12.2000 recommending the names of respondent No.3 & 4.

3. In order to decide the matter in controversy vide order dated 17.8.2001, we directed the respondents to produce the record of DPC held on 5.12.2000 for the post of Assistant Store Keeper whereby name of private respondents were recommended for promotion to the post of Assistant Store Keeper (Technical) and also proceedings of the High Power Committee held on 27-28th January, 2003. Respondents have produced the records. From the perusal of the records, it is evident that private respondents No.3&4 were promoted as Assistant Store Keeper (Technical) against the two posts which were lying vacant since 1998. Admittedly the applicants were promoted to the post Assistant Store Keeper in the year 2001. In this case applicants have not challenge the validity of promotion order of private respondents No.3&4 from retrospective effect on merit ~~except~~ on the ground that such promotion from retrospective date could not have been granted for want of vacancy which ground does not subsists now. Learned counsel for applicant submits that he wants to withdraw this OA at this stage with liberty reserved to him to file substantive OA for the same cause of action.

4. In view of what has been stated above, the present OA is disposed of with liberty reserved to the applicants to file substantive OA thereby challenging the retrospective promotion of the private respondents on all available grounds. It will be permissible to respondent No.3&4 to raise all permissible objections in the OA to be filed by the applicants.

5. With these observations the present OA is disposed of with no order as to the costs.


(B.L. Khatri)
Member (Administrative)


(M.L. Chauhan)
Member (Judicial)

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