

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

25

ORDERS OF THE BENCH

22.07.2011

OA No. 28/2008 with MA 129/2008

Mr. Surendra Singh, Proxy counsel for
Mr. C.B. Sharma, Counsel for applicant.
Mr. Hemant Mathur, Counsel for respondents.

On the request of the proxy counsel appearing on
behalf of the applicant, put up for hearing on 08.08.2011.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

K. S. Rathore
(Justice K.S. Rathore)
MEMBER (J)

AHQ

2/2/2011
2/2/2011
2/2/2011

08/08/2011

OA 28/2008 with MA 129/2008

Mr. C.B. Sharma, Counsel for applicant.
Mr. Hemant Mathur, Counsel for respondents.

Heard learned counsel for both
the sides.

The O.A. is disposed of by a separate
order on the separate-sheets for the
reasons recorded therein.

Anil Kumar
[Anil Kumar]
Member (A)

K. S. Rathore
[Justice K.S. Rathore]
Member (J)

2/2/2011

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 08th day of August, 2011

ORIGINAL APPLICATION No.28/2008

With

MISC. APPLICATION No.129/2008

CORAM :

HON'BLE MR.JUSTICE K.S.RATHORE, JUDICIAL MEMBER
HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

Badri Narain Meena,
UDC,
O/o Deputy Director General,
Geological Survey of India,
Western Region, Jhalana Doongri,
Jaipur.

... Applicant

(By Advocate : Shri C.B.Sharma)

Versus

1. Union of India through
Secretary,
Ministry of Mines,
Government of India,
Department of Geological Survey of India,
New Delhi.
2. Director General,
Geological Survey of India,
27, Jawahar Lal Nehru Road,
Kolkata.
3. Dy.Director General,
Geological Survey of India,
Western Region, Jhalana Doongri,
Jaipur.

... Respondents

(By Advocate : Shri Hemant Mathur)

ORDER (ORAL)

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The applicant has filed this OA seeking the following relief:

- "i) That respondents may be directed to consider candidature of the applicant to the cadre of Assistant scale Rs.5000-8000 from the cadre of UDC scale Rs.4000-6000 against points reserved for ST community and to give promotion to the cadre of Assistant from the month of November, 2007 by quashing letter dated 20/29.11.2007 (Ann.A/1) with all consequential benefits including arrears of pay allowances and due seniority.
- ii) That respondents be further directed to follow instructions issued by the DOPT vide O.M. dated 2/7/1997 by which post based rosters have been prescribed instead of vacancy based rosters for the purpose of reservation to ST community time to time and to consider candidature of the applicant against ST quota for promotion in the cadre of Assistant."

2. Brief facts of the case are that the applicant is a substantive employee of the respondent-department and after passing the departmental examination to the cadre of Upper Division Clerk [UDC], became UDC in the year 2002 and joined the post on 18.10.2002. He has been continuously holding the post of UDC scale Rs.4000-6000 since 18.10.2002 and has completed 5 years regular service in the cadre of UDC on 18.10.2007. The respondents issued a seniority list, as on 31.12.2004, to the cadre of UDC, in which name of the applicant finds place at S.No.25, whereas upto S.No.21 the officials holding the post of UDC in the year 2004 have been promoted to the cadre of Assistant scale Rs.5000-8000 and name of the applicant in the zone of consideration to the cadre of Assistant is at S.No.4 on the basis of general seniority. The applicant belongs to Scheduled Tribes [ST] category and he is entitled for promotion to the cadre of Assistant against the quota meant for ST category, as no ST category candidate is available in the cadre of Assistant on the ground that two officials namely S/Shri Ram Gopal Meena and Ram Chandra Meena are holding the post of Assistant on the basis of their own general seniority and no benefit of ST category has been allowed to any candidate till date in the cadre of Assistant. The

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applicant had completed 5 years of regular service in the cadre of UDC on 18.10.2007 and he became eligible to the cadre of Assistant scale Rs.5000-8000 on the basis of general seniority as well as against the points reserved for ST category. But, the respondents have not considered the candidature of the applicant. Therefore, the applicant made request to the respondent No.3 on 05.10.2007 stating therein that he is the only candidate of ST category in UDC cadre and the points reserved for ST category in the cadre of Assistant category never filled in. Therefore, he may be allowed promotion to the post of Assistant against points No.14, 28 and 39 meant for ST category in the roster system. However, the respondents, without any basis, have informed that the representation of ST community is full. Based on these facts, the applicant has prayed that the present OA may be allowed and he may be promoted to the post of Assistant.

3. The respondents have filed their reply. In their reply, they have stated that total sanctioned strength in the cadre of Assistant is 39 and for 39 posts only two posts are earmarked for ST category in the post based roster and in the grade of Assistant it has already been completed by two incumbents of ST category viz. S/Shri R.G. Meena and R.C. Meena. They have also pointed out that at present the applicant is not eligible to be considered for promotion in the grade of Assistant as he joined in the grade of UDC w.e.f. 01.06.2004 and thus has not completed the required eligibility period of five years of regular service in the grade of UDC. Therefore, action of the respondents is just, proper and as per rules/instructions on the subject. The applicant was reverted to the post of LDC from the post of UDC w.e.f. 18.10.2002 and he deemed to be UDC only w.e.f. 01.06.2004 vide order dated 29.01.2008 (Ann.R/4). Against the said reversion order, the applicant preferred an OA (No.35/2008), which was pending at the time of filing reply by the respondents. However, that OA has since been decided by this Tribunal vide order dated 14.07.2011, whereby reversion of the applicant has been upheld and, therefore, the applicant did not complete the required five years of regular service in

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the feeder cadre of UDC, as per the recruitment rules, for the grade of Assistant. Therefore, he is not eligible to be considered for promotion to the grade of Assistant.

4. Heard learned counsel for the parties and perused the documents on record. During the arguments, learned counsel for the applicant reiterated the facts as stated in the OA. He further argued that there should be two candidates of ST category in the grade of Assistant and the two ST candidates, as mentioned by the respondents in their reply, have occupied this position because of their own merit and these posts are not filled up because they are ST candidates. However, regarding the length of service of five years, he did not press the issue in view of the order passed by this Tribunal on 14.07.2011 in OA 35/2008, whereby reversion of the applicant from the post of UDC to the post of LDC between 18.10.2002 to 31.05.2004 has been upheld by this Tribunal. Thus, it is not disputed that the applicant has not completed five years regular service as UDC on 18.08.2007. Therefore, it is now not disputed that the applicant is not eligible for promotion to the grade of Assistant as he has not completed five years of regular service as UDC.

5. Learned counsel for the respondents argued that, as stated in the reply to the OA, two incumbents of ST category viz. S/Shri R.G.Meena and R.C.Meena are already occupying the posts of Assistant. He has shown the model roster of reservation, according to which point No.14 and point No.28 of the points are reserved for ST candidates. The third vacancy for the ST candidate is at roster point No.40. It is admitted fact that there are 39 posts of Assistant. Therefore, only two posts of Assistant can be earmarked for ST category candidates as per the roster and both these posts are already filled up by ST candidates. Therefore, there is no vacancy for the ST candidates to be considered for promotion under this category. On this ground also, the applicant has no case.

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6. We are, therefore, of the considered view that based on the facts of the case, there is no reason for interference by this Tribunal and the present OA stands dismissed being devoid of merit with no order as to costs.

7. In view of the order passed in the OA, no order is required to be passed in the MA 129/2008 and the same also stands disposed of accordingly.

Anil Kumar

(Anil Kumar)
Member (A)

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K.S. Rathore

(Justice K.S.Rathore)
Member (J)