

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 4th day of April, 2011

Original Application No.145/2009

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Harish Chand
s/o Shri Bidha Ram,
r/o House No.65/2,
Rastriya Military School, Ajmer
and at present working as
Assistant Master (Hindi),
Rastriya School,
Ajmer.

.. Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India
through its Secretary to the Govt. of India,
Department of Defence,
Ministry of Defence,
New Delhi.
2. Director General of Military Training (M.T.-15),
General Staff Branch,
Army Headquarter,
D.H.Q. P.O. New Delhi.
3. Principal,
Rastriya Military School,
Dholpur (Rajasthan).
4. Principal,
Rastriya Military School,
Ajmer (Rajasthan)

.. Respondents

(By Advocate: Shri Mukesh Agarwal for resp. 1 and 2 and Shri Vikas Jain, proxy counsel for Shri Sanjay Pareek for resp. No.3)

ORDER (ORAL)

In the present OA the applicant claimed relief to direct the respondents to promote him to the post of Master Gezzetted scale Rs. 7500-12000 from the year 2001 or 2003, as the case may be, by quashing policy decision with the OM dated 31.3.2006 (Ann.A/7) and letter dated 3.4.2008 (Ann.A/11) with all consequential benefits.

2. Brief facts of the case are that the applicant was appointed as Assistant Master (Hindi) vide letter dated 30.6.1994 (Ann.A/1) and vide letter dated 22.9.2003 (Ann.A/2) the applicant requested for promotion to the post of Master Gazetted (Hindi). It is averred that the respondents convened DPC in respect of subject Chemistry and Physics and promoted certain officials vide letter 20.6.2005, but not allowed promotion to the officials of Hindi subject. Since the applicant was not promoted to the post of Master Gazetted (Hindi), he again made representation on 18.7.2005 (Ann.A/6), 22.9.2005 and 22.11.2005 and to the concerned Committee of Lok Sabha, which has been responded by the Department and the applicant was informed vide letter dated 31.3.2006 (Ann.A/7) that the post of Master Gazetted (Hindi) has become surplus. The applicant further made representation dated 13th January, 2007 for allowing promotion and the applicant was informed that since the post of Master Gazetted has become surplus, it is not possible to allow promotion to the post vide their letter dated 18.6.2007 (Ann.A/10). It



appears that the applicant repeatedly represented before the respondents regarding promotion on the post of Master Gazetted (Hindi). Respondent No.2 also informed the Lok Sabha Secretariat that case of the applicant for promotion from Assistant Master (Hindi) to Master Gazetted (Hindi) was sent to DOP&T and the DOP&T has clarified that Master Gazetted posts in subjects of Hindi, History, Political Science and Geography are to be declared as dying posts/cadre and no other recruitment or promotion is to be carried out in these subjects and the posts of Master Gazetted in these subjects have thus been declared surplus to the department. Vide Ann.A/10 the Ministry of Defence has also clarified to the Committee Officer, Lok Sabha Secretariat regarding the case of the applicant in consultation with the Army Headquarter and following comments were offered pointwise:-

"2. The matter has been considered in consultation with Army Hqs and following comments are offered pointwise:-

- (i) A vacancy of Master Gazetted (Hindi) had come up in Nov 2001 due to resignation of Master Gazetted (Hindi) a direct recruit candidate from UPSC. However, the DPC could not be held in the year 2002 for promotion to Master Gazetted in any of the subjects including Hindi. One more vacancy for Master Gazetted (Hindi) had occurred in Feb 2003 due to retirement of a promotee candidate but the process of discontinuation of humanities stream in Military Schools was already being contemplated during this period and hence no DPC was held.
- (ii) As regards appointment of Master Gazetted in Political Science and Geography in 2001 by direct recruitment through UPSC, it is submitted that their selection process was started in 1999 by the deptt well before the decision to discontinue the humanities stream. Hence these Master Gazetted in these subjects have been appointed in Military Schools.



- (iii) No assurance was given to Shri Harish Chand that he will be promoted to the post of Master Gazetted Hindi.
- (iv) The reservation policy of the Government for filling up the vacancies of SC and ST candidates in Military schools is being strictly adhered to. However, 04 posts of Master Gazetted reserved for SC/ST candidates have not been filled up due to non-availability of candidates in feeder grade in their respective subjects or due to discontinuation of humanities subjects.
- (v) The matter was referred to the DOP&T for clarification and the extract of the reply from DOP&T is as under:-

" However in respect of surplus posts of Master Gazetted in the concerned Humanities subjects after appropriate adjustment, there can be no promotion from Assistant Teachers in the concerned subjects only to let these teachers to continue to teach plus 10 or lower classes."

As regards existing surplus Master Gazetted in Humanities stream after necessary adjustment indicated above, if in terms of age profile etc. they are going to be wasted out in few years, then perhaps, these posts may be declared as dying posts/cadres with no fresh recruitment being made either by promotion or by direct recruitment and their services utilized in the manner considered appropriate. If on the other hand, they are going to be in service for a sufficiently long time. it would be appropriate to declare them surplus and offer special VRS.

3. The respondents also categorically submitted in their reply that since the matter of discontinuation of Humanities Stream in Rashtriya Military Schools was under consideration, therefore, no DPC was held in the year 2001, 2002 and 2003 for any of the subjects including Humanities and Hindi. It is also made clear that Humanities stream subjects were taught in Military Schools upto the session ending March, 2004 and there was only one student



belonging to the category of staff members who passed with the subject Hindi compulsory. The respondents have also relied upon Ann.A/10 through which clarification was given by the DOP&T in the following terms:-

"However, in respect of surplus posts of Master Gazetted in the concerned Humanities subject after appropriate adjustment, there can be no promotion from Assistant Teachers in the concerned subjects only to let these teachers to continue to teach plus 10 or lower classes."

" As regards existing surplus Master Gazetted in Humanities stream after necessary adjustment indicated above, it in terms of age profile etc., they are going to be wasted out in few years, then perhaps these post may be declared as dying posts/cadre with no fresh recruitment being made either by promotion or by direct recruitment and their services utilized in the manner considered appropriate. IF on the other hand, they are going to be in service for a sufficiently long time, it would be appropriate to declare them surplus and offer special VRS."

4. We have thoroughly examined the material available on record and after having heard the rival submissions of the respective parties, it is not disputed that the post of Master Gazetted (Hindi) became surplus as per the policy decision taken by the respondents after due deliberations and having considered the representations filed by the applicant at various stages and even by the Committee Officer, Lok Sabha Secretariat and DOP&T as well as by the Ministry of Defence. It is categorically stated that in respect of surplus posts of Master Gazetted in the concerned Humanities subjects after appropriate adjustment, there can be no promotion from Assistant Teachers in the concerned subjects only to let these teachers to continue to teach plus 10 or lower classes.



As regards existing surplus Master Gazetted in Humanities stream after necessary adjustment, if in terms of age profile etc., they are going to be wasted out in few years, then fresh recruitment being made either by promotion or by direct recruitment and their services utilized in the manner considered appropriate. If on the other hand, they are going to be in service for a sufficiently long time, it would be appropriate to declare them surplus and offer special VRS.

5. As the matter has been examined at various levels by the Government of India, Ministry of Defence and DOP&T as well by the Committee Officer, Lok Sabha Secretariat and In the interest of public at large, the post of Master Gazetted (Hindi) was rightly declared surplus. As per settled principle of law the applicant cannot claim promotion on the post which is in fact declared as dying post/cadre and as per the policy decision no fresh recruitment is to be made either by promotion or by direct recruitment. Thus, we find no merit in this Original Application and the same fails being devoid of merit and accordingly dismissed with no order as to costs.

Anil Kumar

(ANIL KUMAR)
Admv. Member

K. S. Rathore

(JUSTICE K.S.RATHORE)
Judl. Member

R/