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01/11/2011
O.A. 485/2009

Present : Mr. D. C. Gupta counsel for the applicant.
Mr. Ashish Kumar proxy for
Mr. Sanjay Pareek counsel for the respondents

This case has been listed before Deputy Registrar due to non-availability of Division Bench. Let the matter be placed before the Hon'ble Bench on 22/11/2011.


(Gurmit Singh)
Deputy Registrar

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22/11/2011

O.A. No. 485/2009

Mr. D. C. Gupta, Counsel for applicant.
Mr. Sanjay Pareek, Counsel for respondents

Heard.

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)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 22nd day of November, 2011

Original Application No.485/2009

CORAM:

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

Prabhu Dayal Jatav
s/o Shri Khunni Ram,
r/o Village and Post Panchori,
Tehsil Deeg, District Bharatpur,
at present working as
Assistant Master (Hindi) at
Rashtriya Military School,
Dholpur.

.. Applicant

(By Advocate: Shri D.C.Gupta)

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,
Rashtriya Military School,
Dholpur (Rajasthan).
4. Principal,
Rashtriya Military School,
Ajmer (Rajasthan)

.. Respondents

(By Advocate: Shri Sanjay Pareek)

ORDER (ORAL)

Brief facts of the case are that the applicant was initially appointed on the post of Assistant Master (History) at Military School, Ajmer vide order dated 16.4.90. Thereafter on the request of the applicant, his faculty was changed from History to Hindi w.e.f. 23.10.1993. Subsequently, in December, 2001 one vacancy of Master Gazetted (Hindi) became available at Military School, Dholpur. The applicant was senior most Assistant Master (Hindi) and being SC category in all the 5 Military schools was eligible and entitled for promotion on the post of Master Gezettled (Hindi), but he was not allowed promotion to the post of Master Gazetted (Hindi).

2. On denial of promotion, the applicant made representation before respondent No.2, but no action has been taken by the respondents. In the meanwhile, one more post of Master Gazetted (Hindi) had arisen in the year 2003 at Rashtriya Military School, Bangalore. Again the applicant made representation dated 28.10.2003 before respondent No.2 but candidature of the applicant for promotion on the post of Master Gazetted (Hindi) against the aforesaid post was not considered. The applicant also requested to convene Departmental Promotion Committee (DPC) for promotion on the said post.

3. The respondent No.2 vide letter dated 23.4.2004 circulated instructions of the Ministry of Personnel, Public Grievances and



Pensions issued in the year 2002 and 2004 in connection with model calendar for holding of DPC issued vide OM dated 8.9.1998 which provides determination of eligibility and holding DPC in the month of April in the case of calendar year based. Again the applicant was ignored for consideration of his candidature and he has been continuously making representations in this regard, but no response was given by the respondents. In the meantime, the applicant was transferred from Ajmer to Military School, Dholpur. The respondents informed the applicant that humanities stream has been discontinued from Military Schools.

4. Since candidature of the applicant was not considered even on availability of vacancy of Master Gazetted (Hindi), the applicant preferred the present OA before this Tribunal claiming relief that respondents may be directed to promote the applicant to the post of Master Gazetted scale Rs. 7500-12000 from the year 2001 by quashing the policy decision by which humanities stream has been discontinued from the Military Schools.

5. Per contra, the learned counsel appearing for the respondents submitted in the reply that the department has taken policy decision in the year 2001 to discontinue with the humanities stream in all the Military Schools. Accordingly, decision to hold DPC was delayed till the vacancy position became clear. There was no post of Master Gazetted (Hindi) in the year 2005 at Rashtriya Military School, Dholpur. Only one girl staff child was allowed to opt Hindi at the parent's request who fully knew that there was no Master Gazetted to teach the students.



6. In para 16 of their reply, the respondents have submitted that it is agreed that individual is not at fault and the organization sympathize with the applicant. The subject Hindi is a dying post as a consequence of the decision of the discontinuation of humanities stream in Rashtriya Military Schools. However, the applicant can be considered for grant of any other alternative benefit which will place him in the higher grade without giving functional promotion to continue in Rashtriya Military School or he may be promoted and transferred to any other Central Government institute in the post of Master Gazetted/Analogous post.

7. The learned counsel appearing for the applicant submitted that if the respondents, as admitted in para-16 of the reply, extend the benefit to the applicant, he is ready to accept the same. He further submits that the reply has been filed by the respondents way back on 26.3.2010 and since then, the applicant's candidature has neither been considered for grant of any other alternative benefit which will place him in the higher grade nor he was considered for promotion and transferred to any other Central Government institute in the post of Master Gazetted/Analogous post, as admitted by them. Therefore, the applicant prays that as per the admitted position, the respondents may be directed to consider case of the applicant in view of the reply submitted in para-16 of the reply.

8. Having considered the rival submissions of the respective parties and upon perusal of para-16 of the reply, it is not disputed that the respondents are agreed that the applicant is not at fault



and the organization has full sympathy and he can be considered for grant of any other alternative benefit which will place him in the higher grade without giving functional promotion to continue in Rashtriya Military School or he may be promoted and transferred to any other Central Government institute in the post of Master Gazetted/Analogous post.

9. In view of admission of the respondents, we deem it proper to direct the respondents to consider case of the applicant either on the post of Master Gazetted (Hindi) or provide him any other alternative benefit which will place him in the higher grade without giving functional promotion to continue in Rashtriya Military School or he may be promoted and transferred to any other Central Government institute in the post of Master Gazetted/Analogous post.

10. It is further made clear that the aforesaid exercise shall be undertaken within the period of three months from the date of receipt of a copy of this order and extend all consequential benefits to the applicant as has been granted to the similarly situated persons.

11. With these observations, the OA stands disposed of with no order as to costs.

Anil Kumar
(ANIL KUMAR)
Admv. Member

K.S.Rathore
(JUSTICE K.S.RATHORE)
Judl. Member

R/