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13/08/2012
O.A. 139/2010

Present : Mr. Amit Mathur counsel for the applicant.
Mr. Mukesh Agarwal counsel for the respondents.

This case has been listed before Joint Registrar due to non-availability of Division Bench. Let the matter be placed before the Hon'ble Bench on 06/09/2012.



(Gurmit Singh)
Joint Registrar

V/v

06-09-2012

O A No. 139/2010

Mr. Amit Mathur, Counsel for applicants.
Mr. Mukesh Agarwal, Counsel for respondents.

Heard.

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

Anil Kumar
[Anil Kumar]
Member (A)

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

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 139/2010

DATE OF ORDER: 06.09.2012

CORAM

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

1. Ashok Kumar S/o Shri Girdhari Lal Sharma, age around 50 years, R/o Mohallha Bheekam Saiyed, Alwar, presently working as Meter Reader, M.E.S., Garrison Engineer, (HS) Alwar.
2. Ram Khilari Sharma S/o late Shri L.S. Sharma, age around 52 years, R/o 4/339, Kala Kauwan, Alwar, presently working as Meter Reader, M.E.S., Garrison Engineer (HS), Alwar (Rajasthan).

...Applicants

Mr. Amit Mathur, counsel for applicants.

VERSUS

1. Union of India through its Secretary, Ministry of Defence, New Delhi.
2. Engineer in Chief, Military Engineering Services, New Delhi.
3. Chief Engineer, Military Engineering Services, Power House Road, Banipark, Jaipur (Rajasthan).

... Respondents

Mr. Mukesh Agarwal, counsel for respondents.

ORDER (ORAL)

Learned counsel appearing on behalf of the respondents placed reliance upon the order passed by this Bench of the Tribunal in O.A. No. 503/2010 on 28th August, 2012 in the case of Krishan Singh Meena vs. Union of India and Ors. He further submits that the controversy involved in the present Original Application is squarely covered by this order dated 28th August, 2012 passed by this Bench of the Tribunal in O.A. No. 503/2010. Learned counsel appearing for the applicants is also agreed with the submissions made on behalf of the respondents.



2. We have also gone through the order dated 28th August, 2012 passed by this Bench of the Tribunal in O.A. 503/2010 in the case of Krishan Singh Meena vs. Union of India & Ors. Para 10 of the said order dated 28th August, 2012 passed in OA No. 503/2010 (supra) is reproduced as under:

"10. Heard the rival submissions of the parties and perused the documents on record. It is not disputed that the policy of merger of the cadre of Meter Reader and Store Keeper was promulgated on 28.11.2003, which was subsequently declared as illegal and was cancelled vide order dated 31.03.2006 (Annexure A/7). This cancellation order is not under challenge in the present OA. The prayer of the applicant is that he is senior to respondent no. 5, therefore, he should be promoted from the date his junior employees have been promoted. Learned counsel for the respondents did not dispute that in the seniority list of HSG, the applicant is senior to private respondent no. 5 but he argued that private respondent no. 5 passed the Store Keeper Grade I Examination during 2003, as such he was eligible for promotion to Store Keeper Grade I as on 01.01.2007 i.e. cut off date as per the Recruitment Rules. Whereas the applicant though senior did not pass the departmental examination of Store Keeper Grade I earlier to cut off date but passed it on 28.05.2008. This fact has not been disputed by the learned counsel for the applicant. However, he argued that he was not given an opportunity to pass that examination at the relevant time. He argued that passing of departmental Store Keeper Grade I Examination for promotion from SK-II to SK-I was not essential for the existing Meter Reader (HS-II) as per the policy of merger. This was one time exception. Therefore, it was not required from the applicant to pass this examination. However, we are of the opinion that since the policy of merger was later on declared as illegal and was cancelled, therefore, this exception of not passing the Departmental Store Keeper Grade I Examination for promotion also goes away. Therefore, it was incumbent upon the applicant to pass the Departmental Store Keeper Grade I Examination for promotion from SK-II to SK-I. Subsequently the applicant also appeared in this examination and passed it on 28.05.2008. Since the applicant passed this examination on 28.05.2008, therefore, he was not eligible for promotion to SK-I for the year 2007-2008 as cut off date for eligibility of promotion for the vacancy for the year 2007-2008 was 01.01.2007. On the other hand, respondent no. 5, though junior to the applicant, passed this examination during 2003 and as such, he was eligible for promotion to Store Keeper Grade I as on 01.01.2007 that is cut off date as per the Recruitment Rules. Therefore, in our opinion, we find no irregularity/illegality in the promotion of respondent no. 5. Thus the applicant has failed to make out any case for our interference in the present OA."



3. Since both the learned counsels appearing for the respective parties are agreed that the controversy involved in the present Original Application is fully covered by the ratio decided by this Bench of the Tribunal in O.A. No. 503/2010 vide order dated 28th August, 2012 in the case of Krishan Singh Meena vs. Union of India & Ors. (supra), the present Original Application is being decided in view of the observations made in order dated 28th August, 2012. Therefore, the observations made by this Bench of the Tribunal in O.A. No. 503/2010 vide order dated 28th August, 2012 in the case of Krishan Singh Meena vs. Union of India & Ors. (supra) shall apply in the present case also in all respect.

4. Consequently, the present Original Application being devoid of merit is dismissed with no order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

K. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)