

**Central Administrative Tribunal  
Principal Bench, New Delhi.**

**OA-3415/2012**

**Reserved on : 15.01.2018.**

**Pronounced on :21.02.2018.**

**Hon'ble Mr. Raj Vir Sharma, Member (J)  
Hon'ble Ms. Praveen Mahajan, Member (A)**

Smt. Rita Ahuja,  
W/o Sh. Arvind Ahuja,  
R/o D-37, Surajmal Vihar,  
Delhi-110092. .... **Applicant**

(through Sh. A.K. Trivedi, Advocate)  
Versus

1. Union of India through  
Its Secretary,  
Ministry of Defence,  
South Block, New Delhi.
  
2. The Officer I/c Records,  
AOC Records, Trimulgherry Post,  
Secundrabad-15.
  
3. The Commandant,  
Central Vehicle Depot,  
Delhi Cantt-110010. .... **Respondents**

(through Sh. Satish Kumar, Advocate)

**O R D E R**  
**Ms. Praveen Mahajan, Member (J)**

The current O.A. has been filed seeking the following reliefs:-

"(a) Quash and set aside the Impugned order dated 29/10/2011 declaring as illegal, unjust and arbitrary.

(b) Direct the respondents to consider the case of the applicant for promotion to the post of Chargeman-II Cadre as per Old/prevalent Recruitment Rules of 1980 in view of the DPC held on 23 & 24 Mar, 2009 for the vacancies prior to amended RRs and if the applicant is found fit, she may be promoted to the post of

Chargeman-II Cadre with all consequential benefits accruing therefrom.

(c) Call for the complete records of the case including DPC proceedings held on 23 & 24 Mar, 2009.

(d) Any other relief which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."

2. Briefly stated, the facts of the case are that the applicant was appointed as Tailor Group 'B' Tradesman in the office of the respondents on 23.09.1982. She states that the trade of Tailor has been declared as skilled and she has been declared as skilled Tradesman w.e.f. the date of her initial appointment.

3. As per the Recruitment Rules (RRs) called as Army Ordnance Corps (Technical Supervisory Posts) Recruitment Rules, 1980, the post of Part-II Cadre Chargeman is to be filled by promotion from Group-B Tradesman and those who have passed the trade test.

4. The Trade Test for promotion to the post of Chargeman was conducted by the respondents in the year 1994 for which the applicant appeared and qualified. She states that she has been waiting for her promotion since then but has not been considered by the respondents for the reason that she has not been declared as skilled tradesman. On 13.08.2002, the respondents issued Order No. 85/02 declaring her as skilled from semi skilled from the date of her initial appointment i.e. 23.09.1982.

5. Vide order dated 06.06.2006, the Director General of Ordnance, issued an order specifying that trades like Tailor, Tentmenders etc. being semi skilled trades are not eligible for promotion to Chargeman Grade-II. It was clarified that reclassification of these trades as 'Skilled' has been turned down by MOD/GOI. The Record Office, on 24.01.2009 intimated that following tailors (the applicant) are required to be considered for promotion to Chargeman Part-II Cadre with retrospective effect by DPC scheduled to be held on Feb 05 & 06. The special ACR of the applicant was sent for consideration for promotion to the post of Chargeman Part-II Cadre. However, the CVD, Delhi Cantt. Illegally promoted Sh. Salim Khan, admittedly, junior to the applicant for the post of Chargeman. This discrepancy was also pointed out by the record office.

6. The applicant's representation on 21.04.2009 stating that her case for promotion to the post of Chargeman should be considered since she had qualified the trade test in the year 1994, and that there was no provision for promotion in HS-II and HS-I in the Tailor Trade.

7. In reply to her R.T.I. query, the respondents informed the applicant that a total of 120 cases were screened against 34 vacancies by the special review DPC held on 23rd & 24<sup>th</sup> March, 2009. Since the name of the applicant appeared at Serial No. 77 in

the seniority list, she could not be recommended for inclusion in the panel. The applicant again represented on 06.11.2009 bringing out the fact that out of 120 persons, 52 Tailors already stood retired from service. Therefore, the name of the applicant would slide up to Serial No. 25 and then she would be well within the zone of consideration for promotion to the post of Chargeman Part-II.

8. The applicant further submits that as per the new RRs, the Tailor (skilled) can be promoted to the post of Tailor (Highly Skilled) but before the new RRs came into force, the Trade of Tailor was eligible for promotion to the post of Chargeman Part-II. Since the 34 vacancies for the post of Chargeman Part-II are of a period prior to 2009 i.e. before publication of new RRs, hence, the same are to be filled up as per the old RRs, 1980.

9. The respondents have been insisting that the applicant must pass the Trade Test for the post of HS, which is lower than that of Chargeman. The applicant, however, has also passed the Trade Test for the post of HS in the month of December, 2011. Respondents have rejected the claim of the applicant vide order dated 29.10.2011 on the following ground:-

“(a) Smt. Rita Ahuja has been declared Skilled from her date of appointment i.e. 23 Sep 82 on the orders of Hon'ble CAT, New Delhi. Her Pay was fixed vide Do Pt II N 124/3 dt. 29 Dec 03 and no separate Do II regarding her Cadre upgradation was Published.

(b) IHQ of MOD (Army) vide their letter N.A/23711/05-8(i) dated 05 Feb, 07 has intimated that all trades including left out trades can

be considered for promotion upto the post of MCM. Since here trade also falls under the cut of the said trades, trade test for the above had been published and conducted.

(c) The SPI ASAR in the year 2009 was called by AOC (Records) on the orders of Hon'ble CAT for promotion of Chargeman Part II vide their Signal No.7066 dt. 24Jan 09. The orders of Skilled Cat for Tailor trade published in Gazette of India Notification dt. 26 Dec 2009 pertains to all Tailor Trade who were in Semi Skilled Cat at that time. Since Smt. Rita Ahuja was already placed in Skilled Cat on the orders of Hon'ble CAT, New Delhi, these orders will have effect only in her future promotions. As regards to trade test, reply has already give Para(2)(b) above."

10. In the counter, the respondents have opposed the averments of the applicant. They submit that as per Instructions contained in Govt. of India, Ministry of Defence letter dated 20.05.2003, 55% of total posts of skilled category are to be promoted as Highly Skilled. Hence, one tailor out of two is required to be promoted as HS in terms of fresh Recruitment Rules. Accordingly, for conducting of trade test of various trades including HS trade was published. The applicant was also called to meet Personnel Officer of the Depot to sort out her grievances regarding trade test in Highly Skilled Category. In response, the applicant submitted an application dated 03.04.2010 stating that when she has already passed the trade test, she cannot be forced to appear for the test of HS category. It is averred that the applicant had passed the trade test of Chargeman Part-II in Tailor Trade in 1994 and was declared as Skilled Tailor category from the date of appointment on the basis of Principal Bench order dated 04.12.2001. Special ACR in respect of Tailors and

Upholsters were called for to consider their candidature for promotion to Chargeman Part-II Cadre (as per unamended Rules) to fill up the vacancies which occurred during 2002 to 31.12.2005, in compliance of Tribunal's order dated 10.08.2008 in OA-2112/2007. Total 120 cases were screened against 24 vacancies duly constituted by Spl. Review DPC held on 23<sup>rd</sup> and 24<sup>th</sup> March, 2009. The applicant's name appeared at Serial No. 77 in the seniority list against 40 vacancies which included wastage vacancy. Being at a relatively low seniority, her name was not included in panel details of vacancy from years 2002 to 2005. Since the applicants of OA-2112/2007 were also not recommended by ibid DPC due to low seniority, no further action has been taken as per directions of IHQ of Ministry of Defence (Army).

11. The respondents also aver that irrespective of her seniority, the applicant cannot be considered for promotion to Highly Skilled grade unless she passes the Trade Test prescribed for Highly Skilled grade.

12. In the rejoinder, the applicant has reiterated the averments made in the O.A. She submits that there were 32 vacancies to be considered by the review DPC and not 24 as stated by the respondents. Since 52 persons had retired from service, the

applicant was within the zone of consideration and her case was wrongly not considered by the DPC. Sh. Ravinder Singh, who is much junior to the applicant, at Serial No. 113, was considered and promoted.

13. We have gone through the facts of the case and perused the record. It is settled law that any vacancy for promotion is to be filled up as per the Recruitment Rules in vogue. Any amendment in the RRs altering any of the conditions of service or eligibility would be applicable prospectively. Therefore, we agree with the contention of the applicant that her case has to be considered in conformity with the earlier, unamended RRs, 1980, which were in operation on the date when the vacancies occurred.

14. It is true that names of retired officers have to be included in the panel for consideration during vacancies of relevant years to identify the correct zone of consideration. However, it is not understood as to how an officer, who is junior to the applicant (purportedly at Serial Nos. 93 and 99 of the DPC as against the applicant, who was at Serial No. 77) were promoted and the rightful claim of the applicant was ignored. It appears that the review DPC erred in not considering the claim of the applicant for promotion to the post of Chargeman.

15. The respondents insistence that irrespective of her seniority, the applicant cannot be considered for promotion unless she passes the trade test prescribed for HS as per RRs, 2009 is again misplaced in view of the Clarification received vide letter dated 19.11.2012 states that:-

“It is intimated that, IHQ of MoD (Army) has clarified vide letter No. A/23733/TSS/OS-&C(ii) dated 24 Jan 2007 (copy encl.) that **there is no validity period of the said trade test and those who have once passed the trade test are not required to pass it again.**”

16. In view of the facts discussed above, the O.A. is allowed. The respondents are directed to reconsider the case of the applicant for the post of Chargeman-II by convening another DPC under the unamended Rules of 1980. The entire exercise may be carried out within three months from the date of receipt of a certified copy of this order. No costs.

**(Praveen Mahajan)**  
**Member (A)**

**(Raj Vir Sharma)**  
**Member (J)**

/Vinita/