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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

**OA NO.290/00074/2015
WITH
MANO.290/00043/2015**

RESERVED ON 11.01.2018

PRONOUNCED ON : 06.02.2018

...

CORAM:

**HON'BLE MR. R. RAMANUJAM, MEMBER (A)
HON'BLE MR. SURESH KUMAR MONGA, MEMBER (J)**

...

JUMMARATTI S/O SAMAMIYAMIYAN, AGED 60 YEARS, R/O QTR NO.28/11, ABOHAR MILITARY STATION, FAZILKA (PUNJAB). RETIRED FROM THE POST OF CABLE JOINTER, HS FROM THE OFFICE OF GE, MES ABOHAR, FAZILKA (PUNJAB).

...APPLICANT

**BY ADVOCATE : MR. M.S. GODARA PROXY FOR MS.MONIKATAK
VERSUS**

- 1. UNION OF INDIA, THROUGH SECRETARY, MINISTRY OF DEFENCE, RAKSHABHAWAN, NEW DELHI.**
- 2. COMMANDER WORKS ENGINEER, M.E.S. SRI GANGANAGAR (RAJASTHAN).**
- 3. GARRISON ENGINEER, M.E.S.ABOHAR, FAZILKA (PUNJAB).**

RESPONDENTS

BY ADVOCATE: MR.NIMESH SUTHAR

ORDER

PER : SURESH KUMAR MONGA, MEMBER (J):-

THE PLEADED CASE OF THE APPLICANT IS THAT HE WAS INITIALLY APPOINTED AS MAZDOOR ON 20.01.1978 AND SUBSEQUENTLY HE WAS RE-DESIGNATED AS MATE W.E.F. 20.10.1983 IN THE SAME PAY SCALE. HE WAS PROMOTED AS WIREMAN (S.K.) W.E.F. 26.10.1987 IN THE PAY SCALE OF 950-1680. HE WAS FURTHER PROMOTED AS CABLE JOINTER HS-2 W.E.F. 01.04.1998 AND AFTER ATTAINING THE AGE OF SUPERANNUATION HE WAS RETIRED AS SUCH ON 31.01.2015. IT HAS BEEN AVERRED THAT AFTER HIS PROMOTION AS CABLE JOINTER HS-2 HE CAME TO KNOW THAT HIS JUNIORS NAMELY SHRI SOHAN SINGH AND SHRI INDERJEET SHARMA

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HAVE BEEN GRANTED PROMOTION AS CABLE JOINTER HS-2 W.E.F. 01.01.1996 AND WHEREAS THE APPLICANT IS GRANTED PROMOTION W.E.F. 01.04.1998. HE SUBMITTED A REPRESENTATION DATED 14.02.2009 WHICH WAS FORWARDED BY THE GARRISON ENGINEER, ABOHAR TO THE COMPETENT AUTHORITY ON 16.02.2009. HOWEVER, NO ACTION WAS TAKEN. AFTER WAITING FOR SOME TIME, THE APPLICANT AGAIN SUBMITTED A REPRESENTATION ON 17.03.2009 WHICH WAS FORWARDED BY THE GARRISON ENGINEER TO COMPETENT AUTHORITY FOR HIS CONSIDERATION. BUT NO ACTION HAS BEEN TAKEN ON ANY OF THE REPRESENTATIONS. FEELING AGGRIEVED, THE APPLICANT HAS PREFERRED THE INSTANT OA SEEKING A DIRECTION TO THE RESPONDENTS FOR CONDUCTING A REVIEW DPC IN ACCORDANCE WITH THE RECOMMENDATIONS DATED 21.03.2009 AND PROMOTE HIM AS CABLE JOINTER HS-2 W.E.F. 01.01.1996. AN APPLICATION FOR CONDONATION OF DELAY IN FILING THE OA HAS ALSO BEEN FILED BY THE APPLICANT.

2. THE RESPONDENTS, BY WAY OF FILING A JOINT REPLY, HAVE JOINED DEFENCE AND OPPOSED THE CAUSE OF THE APPLICANT PRIMARILY ON THE GROUND THAT THE ALLEGED JUNIORS NAMELY SHRI SOHAN SINGH AND SHRI INDERJEET SHARMA WERE NOT JUNIORS TO THE APPLICANT AS PER THE SENIORITY LIST ANNEXURE-R/2 AND BEING SENIORS, THEY WERE GRANTED PROMOTION AS CABLE JOINTER HS-2 W.E.F. 01.01.1996. IT HAS FURTHER BEEN PLEADED THAT THE APPLICANT IS NOT ENTITLED FOR PROMOTION W.E.F. 01.01.1996. HE WAS RIGHTLY PROMOTED W.E.F. 01.04.1998 WHEN THE AUTHORISED STRENGTH OF THE POSTS WAS INCREASED FROM 6 TO 7. IT HAS ALSO BEEN AVERRED THAT THE INSTANT OA CANNOT BE ENTERTAINED AFTER A LAPSE OF MORE THAN SIX YEARS AND THERE IS NO SATISFACTORY GROUND TO CONDONE THE DELAY.

3. HEARD LEARNED COUNSELS FOR THE PARTIES.

4. LEARNED COUNSEL FOR THE APPLICANT CONTENDED THAT SHRI SOHAN SINGH AND SHRI INDERJEET SHARMA WERE JUNIORS TO THE APPLICANT AND THEY WERE WRONGLY GRANTED PROMOTION TO THE POST OF CABLE JOINTER HS-2 W.E.F. 01.01.1996. HE BEING SENIOR TO THEM OUGHT TO HAVE BEEN GRANTED PROMOTION FROM THE SAME VERY DATE INSTEAD OF 01.04.1998. HE FURTHER ARGUED THAT THE DELAY IN FILING THE OA DESERVES TO BE CONDONED AS IN THE EVENTUALITY OF PROMOTION TO THE APPLICANT W.E.F. 01.01.1996, HIS PENSION WILL ALSO BE REVISED.

5. PER CONTRA, LEARNED COUNSEL FOR THE RESPONDENTS CONTENDED THAT THE APPLICANT WAS NOT SENIOR TO SHRI SOHAN SINGH AND SHRI INDERJEET SHARMA AS PER THE SENIORITY LIST ANNEXURE-R/2 AND HE HAS GOT NO RIGHT TO GET PROMOTION AS CABLE JOINTER HS-2 W.E.F. 01.01.1996. HE FURTHER CONTENDED THAT THE APPLICANT WAS RIGHTLY GRANTED PROMOTION W.E.F. 01.04.1998 WHEN THE AUTHORISED STRENGTH OF THE POSTS WAS INCREASED FROM 6 TO 7. LEARNED COUNSEL STILL FURTHER CONTENDED THAT SUCH A BELATED

CLAIM OF THE APPLICANT CANNOT BE ENTERTAINED BY THIS TRIBUNAL AND, THEREFORE, THE OA DESERVES TO BE DISMISSED.

6. CONSIDERED THE RIVAL CONTENTIONS OF LEARNED COUNSEL FOR THE PARTIES AND PERUSED THE RECORD.

7. ADMITTEDLY, THE APPLICANT WAS JUNIOR TO SHRI SOHAN SINGH AND SHRI INDERJEET SHARMA AS PER THE SENIORITY LIST ANNEXURE-R/2 PRODUCED ON RECORD BY THE RESPONDENTS. THE APPLICANT NEVER CHALLENGED THE SAID SENIORITY LIST CLAIMING HIMSELF TO BE THE SENIOR TO THOSE TWO PERSONS. HE REMAINED TOTALLY SILENT WHEN SHRI SOHAN SINGH AND SHRI INDERJEET SHARMA WERE PROMOTED AS CABLE JOINTER HS-2 W.E.F. 01.01.1996 AND WHEN HE WAS PROMOTED ON THE SAID POST W.E.F. 01.04.1998. AFTER A LAPSE OF ABOUT MORE THAN 11 YEARS HE MOVED A REPRESENTATION ON 14.02.2009 WHICH WAS FOLLOWED BY ANOTHER REPRESENTATION DATED 17.03.2009 CLAIMING FOR REVIEW DPC, BUT STILL HE DID NOT CHOOSE TO RAISE HIS GRIEVANCE BEFORE THIS TRIBUNAL. AFTER ATTAINING THE AGE OF SUPERANNUATION HE RETIRED ON 31.01.2015 AND THEREAFTER HE PRESENTED THE INSTANT OA SEEKING DIRECTION TO THE RESPONDENTS FOR REVIEW DPC TO CLAIM PROMOTION AS CABLE JOINTER HS-2 W.E.F. 01.01.1996. IT IS CLEAR FROM ANNEXURE-R/2 THAT THE APPLICANT WAS JUNIOR TO AFORESAID SHRI SOHAN SINGH AND SHRI INDERJEET SHARMA. HE NEVER CHALLENGED THE SENIORITY LIST ANNEXURE-R/2 AT ANY POINT OF TIME. NOW, THE INSTANT OA HAS BEEN FILED BY THE APPLICANT FOR REVIEW DPC PRESUMING HIMSELF TO BE THE SENIOR TO SHRI SOHAN SINGH AND SHRI INDERJEET SHARMA. WE DO NOT FIND ANY REASON WITH THE APPLICANT BEHIND HIS SUCH A PRESUMPTION. EVEN OTHERWISE, SUCH A BELATED CLAIM CANNOT BE ENTERTAINED BY THIS TRIBUNAL AS ADMITTEDLY THE CAUSE OF ACTION ACCRUED TO THE APPLICANT INITIALLY IN THE YEAR 1996 WHEN HIS ALLEGED JUNIORS WERE PROMOTED AS CABLE JOINTER HS-2 AND THEREAFTER AGAIN WHEN HE HIMSELF WAS PROMOTED ON THE SAME POST W.E.F. 01.04.1998. WE THUS DO NOT FIND ANY MERIT IN THE INSTANT OA. ACCORDINGLY THE OA IS DISMISSED ON MERITS AS WELL AS ON THE GROUND OF DELAY.

8. ORDERED ACCORDINGLY. HOWEVER, THERE SHALL BE NO ORDER AS TO COSTS.

(SURESH KUMAR MONGA)
MEMBER (J)

(R. RAMANUJAM)
MEMBER (A)

RSS/KDR

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