



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, CALCUTTA

Application under Section 19 of the Administrative Tribunal Act, 1985

Title of the Case :

O.A. No. 350/00005 of 2018

Tulshidas Khara, son of Late Balai Chandra

Khara, aged about 50 years, residing at

Village – Chak Gurdaha, P.O. Shyamnagar,

District – 24-Parganas (North), Pin 743127,

working as Master Craftsman (MCM) in the

Trade of Turner in Rifle Factory, Ichapur,

24-Pargans(N), West Bengal.

..... Applicant

- Versus -

1. Union of India, through the Secretary, Ministry of Defence, Government of India (Defence Production), South Block, New Delhi 110001.
2. The Chairman, Ordnance Factory Board (OFB) Government of India, Ministry of Defence, having its office at 10A, Sahid Khudiram Road, Calcutta – 7000001.
3. The General Manager, Rifle Factory, Ichapur, Nababganj, District – 24-Parganas (North) Pin 743144.

4. The Joint General Manager (Administration)
Rifle Factory, Ichapur, Nababganj, District –
24-Parganas (N), Pin – 743144.

5. The Junior Works Manager/LB, Rifle Factory,
Ichapur, Ministry of Defence, P.O. Ichapur,
Nababganj, District – 24-Parganas (N),
Pin – 743144.

..... Respondents.

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CHARTERED

ACCOUNTANTS

INDEPENDENT

MEMBERS

OF THE

INSTITUTE

O.A.No.350/5/2018

Date :29.01.2018

Coram : Hon'ble Mr. A.K. Patnaik, Judicial Member

For the applicant : Mr. P.C. Das, counsel
Ms. T. Maity, counsel

For the respondents : None

ORDER(Oral)**A.K. Patnaik, Judicial Member**

The instant O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- a) " To quash and/or set aside the impugned criptic order being No.1896/I-C/LB/GRV/ dated 5th December 2017, which has been issued by the respondent authority being Annexure A-6 of this O.A. cannot be sustainable in the eyes of law as there was vacancy position of the Master Craftsman in the trade of Turner, as on 20.05.2003 and being senior-most employee who was holding the post of high skilled before 4th grade structure came into force, your applicant was entitled in respect of promotion to the post of Master Craftsman in the trade of Turner with effect from 20.05.003 instead of 01.04.2009;
- b) To pass an appropriate order directing upon the respondent authority that on the basis of vacancy position as on 20.05.2003 to the post of Master Craftsman in the trade of Turner the case of the applicant should be considered in respect of such promotion with effect from 20.05.2003 instead of 01.0 4.2009 and to give all consequential benefits in favour of the present applicant;
- c) To declare that the applicant is entitled for promotion to the post of Master Craftsman as a senior-most high skilled worker in the department as on 2003 and he is entitled for promotion to the post of Master Craftsman with effect from 20.05.2003 In the trade of Turner instead of 01.04.200 along with all consequential benefits;
- d) To pass an appropriate direction upon the respondent authority to produce all the relevant documents pertaining to Master Craftsman as on 20.05.2003 before this Hon'ble Tribunal for proper adjudication of this matter;
- e) Costs;



f) Any other proper relief or reliefs as Your Lordship may deem fit and proper."

2. I have heard Mr.P.C. Das leading Ms. T. Maity, Id. counsel for the applicant. None appears for the respondents. No notice has been issued to the respondents.

3. The sum and substance of the case as narrated by Id. counsel for the applicant, Mr. P.C. Das are that the applicant was appointed to the post of Semi-skilled in the Rifle Factory, Ichapur with effect from 10.07.1996 and subsequently, he was granted promotions to the post of skilled in the trade of turner on 10.07.1998 and thereafter to the post of high skilled with effect from 10th July,2001. The grievance of the applicant is that despite of being eligible for getting promotion to the Master Craftsman as on 20.05.2003 in the trade of Turner, he was not considered for promotion at the relevant time and his promotion was given effect from 01.04.2009. The recognized Association on behalf of the employees submitted such type of discrepancy in respect of the employees concerned whose promotions were not given effect from the actual date when the meeting was conducted in the Office of the General Manager, Rifle Factory, Ichapur on 21.12.2016 for 3 hours where the administration and all the recognized members of the Association were present. This particular issue was raised in serial no.2 in the said meeting. It is submitted by the Id. counsel for the applicant that the respondent authorities duly considered such prayer and directed the A.G.M.(Admn.) to study the case in perspective manner and put up the file before him. Despite such direction by the General Manager, the concerned respondent authority did not consider the case of the present applicant by giving the actual effect of promotion to the post of Master



Craftsman in the trade of Turner with effect from 20.05.2003 and published a seniority list as on 2017 wherefrom it has become clear that dates of promotion of most of the Master Craftsmen in the trade of Turner have not been changed by the administration and effect was shown from 01.04.2009 instead of 20.05.2003. It is submitted by Mr. Das, Id. counsel for the applicant that being aggrieved by such inaction on the part of the respondents the applicant made an application under Right to Information Act, 2005 before the respondent authority on 10.04.2017 to provide information regarding the vacancy position of Master Craftsman in the trade of Turner as on 20.05.2003. The respondent authority vide official communication dated 16.05.2017 under Right to Information Act, 2005 communicated the vacancy position as on 20.05.2003 to the post of Master Craftsman in the trade of Turner. In the said information provided by the authority the vacancy position was clearly shown under Column No.33 in the trade of Turner as 1(one). According to the applicant, being a senior-most candidate he was deprived of getting such promotion despite vacancy arose as on 20.05.2003. Thereafter the applicant made a detailed representation on 31.08.2017 before the concerned respondent i.e. the General Manager, Rifle Factory, Ichapur for considering his promotion to the post of Master Craftsman in the trade of Turner with effect from 20.05.2003. The respondent authority intimated the applicant vide letter dated 28.10.2017 that the application/representation filed by the applicant dated 31.08.2017 was under process and final reply will be communicated very soon. Thereafter on 5th December, 2017 the Junior Works Manager on behalf of the Rifle Factory, Ichapur communicated to the applicant that the information which was provided to the applicant in respect of vacancy position of MCM as on 20.05.2003 was not



correct since there was no vacancy and the applicant was directed to amend the same. Ld. counsel for the applicant submitted that such type of impugned letter cannot be sustainable in the eye of law and under the RTI Act, 2005 it is very clear that the Public Information Officer cannot make a false communication to the incumbent. Ld. counsel for the applicant further submitted that the information provided by the respondent authority to the applicant which is annexed as Annexure A-3 to this O.A. is absolutely correct. According to the ld. counsel for the applicant, there was a vacancy in the post of Master Craftsman in the trade of Turner and since the applicant caught that point and submitted representation, to frustrate the grievances of the applicant the impugned office letter dated 05.12.2017 has been issued by the authority concerned which is not maintainable under the rules.

4. Narrating the above, ld. counsel for the applicant Mr. P.C. Das submitted that the impugned order of the Respondent authority and the information given by them under the RTI Act are contrary to each other, therefore, appropriate order may be given for redressal of the grievances of the applicant. On being questioned as to whether he has availed the departmental remedy by bringing it to the notice of the respondent authority concerned, Mr. P.C. Das has further drawn my attention to the representation of the applicant at Annexure A/4 dated 31.08.2017 and submitted that no final reply has been received by the applicant till date.

5. Considering the aforesaid facts and circumstances, it seems that the representation of the applicant dated 31.08.2017 (Annexure A/4) was not dealt with by the respondents in proper manner. Though no notice has been issued to the respondents I am of the view that it will not be prejudicial to either of the


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parties if a direction is given to the respondent authorities to reconsider the case of the applicant and dispose of his representation dated 31.08.2017(Annexure A/4) as per the extant rules within a specific time frame. Accordingly, while setting aside the impugned order dated 05.12.2017(Annexure A/6), I remit this matter back to the Respondent No.3 i.e. the General Manager, Rifle Factory, Ichapur, Nababganj, 24 Parganas(North) who will reconsider the case of the applicant and dispose of the representation of the applicant dated 31.08.2017(Annexure A/4) by passing a well reasoned order as per rules and regulations governing the field within a period of six weeks from the date of receipt of a certified copy of this order and communicate the decision to the applicant forthwith. If the applicant's claim is found to be genuine, the benefits as claimed in his representation shall be extended to him within a period of further six weeks from the date of taking decision in the matter.

7. It is made clear that I have not gone into the merits of the case and all the points raised in the representations are kept open for consideration by the respondent authorities as per rules and guidelines governing the field.

8. As prayed by the Id. Counsel for the applicant, a copy of this order along with the paper book may be transmitted to the Respondent No.3 by speed post by the Registry for which Id. counsel for the applicant undertakes to deposit the cost within one week.

9. With the above observations the O.A. is disposed of. No order as to cost.


(A.R. Pathaik)
Judicial Member