

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/01082/2018

Dated Friday the 10th day of August Two Thousand Eighteen

PRESENT

HON'BLE MRS. JASMINE AHMED, Member (J)

&

HON'BLE MR. R. RAMANUJAM, Member (A)

S. Pradeep

Door No. 08, Near Emmanuel Eye Hospital

Wood Cote Estate

Coonoor – 643 241

The Nilgiris

.. Applicant

By Advocate M/s. Ayyar and Iyer

Vs.

1. Union of India – rep. by
The Secretary to the Govt. of India
Ministry of Defence
South Block, DHQ(PO)
New Delhi – 110 011.
2. The Director General of Personnel /CSCC
Engineer-in-Chief's Branch
IHQ of MoD(Army)
Kashmir House, Rajaji Marg
DHQ(PO), New Delhi 110 011.
3. The Director (Pers & Legal)
O/o. The Chief Engineer
MES, HQ, Chandigarh Zone N Area
Airport Road
Chandigarh – 160 003.
4. The Chief Engineer
HQ, Southern Command
Pune – 411 001.

5. The Chief Engineer
HQ Chennai Zone
Island Grounds
Chennai – 600 009.

6. The Commander Works Engineer
Wellington – 643 231
(The Nilgiris)

7. The Garrison Engineerr, DSSC
Wellington – 643 231
(The Nilgiris)

.. Respondents

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))

Heard. The applicant has filed this OA seeking the following relief :

" To call for all records from the 3rd respondent pursuant to the impugned proceedings No. 15046/LRS/B/S/388/E1C-1 dt. 26 April 2018 arising out of his representation dt. 23 Feb 2018 against the selection made through LDCE for Supervisor B/S post without exhausting the 5% by Direct Recruitment quota meant for promotion to M/R etc., in gross violation of the RRs notified under SRO 71 of 2008, since the respondents totally ignore the mandatory RRs of SRO 71 of 2008 in which provision is available to post of Supervisor B/S for promotion under 5% Direct Recruitment quota among SK, MR etc and quash the selection of 21 Supervisor B/R - being non est, arbitrary, unconstitutional and patent non-observance of mandatory instructions is writ large, and further direct the respondents to consider the applicant's case for promotion by DR within 5% quota as per SRO 71 of 2008 to the post of Supervisor B/S as per his seniority and other provisions to place his case for consideration before the appropriate Departmental Promotion Committee (DPC) with retrospective effect from the date on which the first vacancy of Supervisor B/S arose with all consequential and attendant benefits and to uphold the rule of law and further prays this Hon'ble Tribunal may be pleased to pass any such orders or directions that may deem fit necessary in the facts and circumstances of the case and thus render justice. "

2. It is submitted that the applicant is working as a Meter Reader under the respondents at the same level even after 25 years of service. Attention is drawn to Annexure A4 Recruitment Rules dt. 04.08.2008 wherein under the column "Method of recruitment - whether by direct recruitment or by promotion or by deputation/absorption and percentage of the posts to be filled by various methods" it is indicated that for appointment as Supervisor Barrack / Stores Grade II, 45% will be by Direct Recruitment, 50% by promotion and 5% by direct recruitment from Departmental Store Keeper Grade II, Meter Reader

HS II and Meter Reader with five years regular service and possessing qualification as specified in column 8, failing which by direct recruitment.

3. The grievance of the applicant is that the method followed by the authorities in filling up the 5% vacancies under the said provision was allegedly faulty in as much as the Recruitment Rules do not provide for any selection process based on written examination and, therefore, the rejection of the applicant's claim for promotion on the ground that he did not qualify in the examination was contrary to the rules.

4. Learned counsel for the applicant would submit that 5% of the vacancies must be filled by promotion as it was meant exclusively for the Departmental Store Keeper Grade-II, Meter Reader HS II and Meter Reader with 5 years experience and accordingly, an appropriate seniority list should have been drawn and a DPC convened for promotion of the applicant and others whose names are contained in the list of eligible persons forwarded to the competent authority by a letter dt. 09.12.2014. It is submitted that the applicant filed OA 1134/2017 which was disposed of by this Tribunal with a direction to the respondents to consider the representation and pass a speaking order. Annexure A24 order dt. 26.04.2018 has been issued in pursuance thereof. Since the respondents have followed a faulty

procedure, the applicant is entitled to the relief prayed for, it is contended.

5. We have carefully considered the matter. The Recruitment Rules clearly provide for filling up of 5% of the vacancies in the cadre by direct recruitment from Departmental Store Keeper/Store Keeper Grade II, Meter Reader HS II and Meter Reader with 5 years regular service possessing qualification as specified in column 8 failing which by direct recruitment. In as much as a specific provision has been made for appointment by **direct recruitment** to the extent of 45% by direct recruitment and 50% by **promotion** of Store Keeper Grade I, clearly, the remaining 5% for **direct recruitment limited to the departmental candidates** must be filled up by way of merit as there cannot be a direct recruitment based on seniority. If it was intended to be based on a common seniority list of the three categories, then the words 'direct recruitment' could not have been used as such appointment would clearly be in the nature of promotion.

6. We are not at all in agreement with leaned counsel for the applicant that the respondents could not conduct a merit based selection by holding a competitive examination for the 5% vacancies as no provision is seen contained in the Recruitment Rules barring such procedure. The respondents have passed a speaking order containing detailed parawise reply to the representation of the

applicant at Annexure A24. We find nothing illegal or infirm in the order.

7. OA is clearly misconceived, totally devoid of merits and is accordingly dismissed.

(R.Ramanujam)
Member(A)

(Jasmine Ahmed)
Member(J)

10.08.2018

SKSI