

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**LIBRARY**

No. O.A. 1663 of 2014

Date of order: 7.11.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Sri Sumanta Debnath,
Son of Late Lakkhan Debnath,
Residing at 46, Rajpukur Path,
P.O. – Authpur,
P.S. – Jagaddal,
Pin – 743 128,
Working as Junior Gestetor Operator now
Categorized as Multi Tasking Staff,

Rifle Factory

Ishapore.

... Applicant

V E R S U S –

1. Union of India
Service through the Secretary,
Ministry of Defence,
New Delhi – 110 001.
2. The Director General
Ordnance Factory,
Government of India
Ministry of Defence,
Ordnance Factory Board,
10A, Shaheed Khudiram Bose Road,
Kolkata – 700 001.
3. The General Manager/Joint General
Manager (Admn.),
Indian Ordnance Factory,
Rifle Factory,
Ishapore,
Nawabganj,
West Bengal – 743 144.
4. Director (Headquarters),
Ordnance Factory,
10A, Saheed Khudiram Bose Road,
Kolkata – 700 001.

.... Respondents

46

For the Applicant : Mr. B.R. Das, Counsel

For the Respondents : Mr. B.B. Chatterjee, Counsel

ORDER

Per Dr. Nandita Chatterjee, Administrative Member:

Aggrieved at not being promoted to the post of Sr. Gestetner Operator, the applicant has approached the Tribunal under Section 19 of the Administrative Tribunal Act, 1985, praying for the following relief:-

"(i) Rescind, recall, withdraw and/or modify/amend the Order being Annexure-A1 with the SRO 57 dated 19.7.2012 insofar as they hold the post of Junior Gestetner Operator as Multi Tasking Staff debarred from any promotion.

(ii) Rescind, recall or cancel the order being Annexure A2 insofar as the same seeks to assign the post of Junior Gestetner Operator in 'non-security' sub-category of Multi Tasking staff.

(iii) Treat the petitioner as appointed to the post of Senior Gestetner Operator w.e.f. 13.9.2013, i.e. after completion of 3 years in the feeder post.

2. Heard both Ld. Counsel, examined pleadings and documents on record. The respondents have, in addition to their reply dated 12.1.2016, clarified the queries of the Tribunal dated 28.8.2019 vide their memo dated 6.11.2019.

3. The matter, in brief, is that the applicant was appointed as a Peon with the respondent authorities on 30.4.2002. On 27.5.2002, he was redesignated as Labourer unskilled. His promotion to the post of Daftry, effective from 1.4.2008, was cancelled on his own request and he was debarred from promotion to the said post for one year from the date of his application, namely, 21.4.2008. Thereafter, on 3.9.2010, the applicant was appointed to the post of Jr. Gestetner Operator by way of transfer to the post of Semi-skilled Labourer. The applicant obtained his financial upgradation under MACP Scheme w.e.f. 2.5.2012.

On 19.7.2012, the Ministry of Defence issued SRO 57, which reads as follows:-

MINISTRY OF DEFENCE
New Delhi, the 19th July, 2012

S.R.O. 57 – In exercise of the powers conferred by the proviso to article 309 of the Constitution, and in supersession of the Ordnance and Ordnance Equipment Factories Group 'C' and Group 'D' Non-Industrial posts (Recruitment and Conditions of Service) Rules, 1989 in so far as they relate to the post of Peon/Orderly/Messenger Boy, Driver, Electric Lift, Jr. Gestetner Operator, Dhobi, Daftry, Blue Printer, Record Supplier, Jamadar, Safaiwala (Sweeper), Bhisti, Mali, Barber, Podder and Masalchi except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules regulating the method of recruitment to the post of Multi-Tasking Staff, Group 'C' Non-Industrial posts in the Ordnance Equipment Factories and other offices and establishments under the Ordnance Factory Organisation, under Ministry of Defence, namely:-

- 1. Short title and commencement** – (1) These rules may be called the Ordnance and Ordnance Equipment Factories Multi-Tasking Staff, Group 'C' Non-Industrial posts (Recruitment) Rules, 2012.
- 2. Number of posts, classification and pay band and grade pay or pay scale** – The name of said posts, its classification and the pay band and Grade Pay/Scales of Pay attached thereto are indicated in column (2), (3) and (4) of the Schedule annexed to these rules.
- 3. Method of appointment, age limit, qualifications etc.** – The method of appointment to the said post, age limit, qualifications and other matter so connected therewith shall be as specified in columns (5) to (13) of the said Schedule.
- 4. Disqualification** – No person
 - (a) Who has entered into or contracted a marriage with a person having a spouse living, or
 - (b) Who, having a spouse living, has entered into a contracted a marriage with any person.
 Shall be eligible for appointment to any of the said posts.

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.
- 5. Power to relax** – Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order and for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons or post.
- 6. Savings** – Nothing in these rules shall affect reservations, relaxation of age limit and other concession required to be provided for the Scheduled Castes, the Scheduled Tribes, Ex-Servicemen and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.”

The said SRO 57 was followed by an order dated 11.9.2012 of the respondent authorities whereby the erstwhile Gr. 'D' posts including, inter alia, that of the Jr. Gestetner Operator were all clubbed together in post of Multi Tasking Staff and the sanction of such Multi Tasking Staff

[Signature]

was to be the total sanctioned strength of the erstwhile Gr. 'D' posts (Annexure R-6 to the reply).

The applicant's prayer to consider him for the post of Sr. Gestetner Operator, was rejected on 14.10.2014 (Annexure A-1 to the O.A.) stating that the said SRO 57 is silent regarding further promotion of MTS Staff and, that, as per provisions of SRO 14(E), it is the Jr. Gestetner Operator, which is the feeder post of Sr. Gestetner Operator, leaving no scope for promotion of MTS to the post of Sr. Gestetner Operator.

4. The applicant claims that

(a) he was deployed as a Junior Gestetnor Operator and his skills as a Jr. Gestetner Operator cannot be equated to that of a Multi Tasking Staff and, that,

(b) as SRO 14(E) dated 4.5.1989 lays down the promotional path from Jr. Gestetner Operator to Sr. Gestetner Operator was issued prior to SRO 57, the petitioner was very much entitled to promotion in the post of Sr. Gestetner Operator as he has completed three years regular service in the post of Jr. Gestetner Operator.

5. The respondents would dispute the claim of the applicant by referring to the provisions of SR 14(E) dated 4.5.1989 that reads as follows:-

" That in terms of SRO 14(E) of 4.5.1989 laid down provision for promotion to the post of Sr. Gestetner Operator is as follows:-

"By promotion from Jr Gestetner Operator and allied grades with 3 years regular service in the grade failing which from Jr. Gestetner Operators with combined 6 years regular service as Jr. Gestetner Operator and as Daftry or in allied grades."

According to the respondents, and, as admitted by the applicant in his pleadings, the applicant was appointed to the post of Jr. Gestetner Operator only on 3.9.2010. Hence, he would have completed three years of regular service as Jr. Gestetner Operator only on 3.9.2013. As SRO 57 came into effect since 19.7.2012 and merger of all Gr. 'D' posts into one

66

combined category of MTS took place immediately thereupon, the applicant, who was yet to attain his eligibility of completion of three years regular service of Jr. Gestetner Operator was redesignated as MTS with no laid down avenue of promotion.

The respondents further argued that their manpower rationalization order dated 6.7.2017 (Annexure R1 to the Supplementary Reply) reveal that the sanctioned strength of Sr. Gestetner Operator was to be treated as "Nil" as there was no further requirement for such posts.

6. During hearing, although not specifically prayed for in the relief, Ld. Counsel for the applicant submits that as the applicant is deprived of his promotional channel to the post of Sr. Gestetner Operator, he would prefer to seek repatriation and would pray for liberty to represent on the same to the respondent authorities.

7. We would hence accord the applicant liberty to represent appropriately to the competent respondent authority praying for his repatriation. In the event, the rules provide for any scope of such repatriation, the competent respondent authority shall, thereafter, examine the contents of his representation in accordance with law and issue a speaking and reasoned order within a period of six weeks after receipt of such representation. The authority shall convey his decision, to the applicant forthwith thereafter.

In case repatriation is feasible, consequent actions should be taken to enable the applicant to be repatriated to his parent department within a further period of four weeks from the date of such decision.

8. With these directions, the O.A. is disposed. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP