

(2019) 02 CAT CK 0018
In the Central Administrative Tribunal
Case No : Original Application No. 548 Of 2012

David Franklin

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 01-02-2019

Acts Referred:

Citation : (2019) 02 CAT CK 0018

Hon'ble Judges : V. Ajay Kumar, J; Aradhana Johri, J

Bench : Division Bench

Advocate : Acharya Santosh Prasad Chaurasiya, Amit Anand

Final Decision : Dismissed

Judgement

V. Ajay Kumar, J

1. The applicant, while working as UDC in 509, Army Base Workshop, Agra, filed the OA seeking the following reliefs:-

"(i) To maintain the uniformity in the government, the applicant be absorbed in-situ on promotion to the rank of Assistant w.e.f. 24.11.2008, against the vacancy of clerk, as P.No.7125622 UDC Goverdhan Das of Det Det DWG EME No.14 (Insp.), P.No.9669394 UDC Mr. R.P. Srivastava and P.No.9701082 UDC Mr. Bunvesh Dutt Nagpal of EDW, Agra were absorbed in-situ on promotion to the rank of Assistant, to maintain similarly in the corps of EME as the in-situ promotion of the applicant to rank of Assistant will not exceed the overall strength of Assistants in the Corps of EME as is being in the Army Ordnance Corps. Moreover the fact that Corps of EME and AOC are functioning under MGO's Branch and MoD, but different norms are being adopted from promotions, whereas CCS Rules are equally applicable to civilians in both the Corps. On one hand the promotion policy (Administrative Policy) being adopted the AOC has been ruled out by the Corps of EME stating that the AOC letter is not a government order, but to the utter surprise, on the other hand the Technical Policy on MOS (Manufacturing of Spares) issued by AOC vide their letter

No.A/04862/OC-10B dated 20.12.1967, revised vide letter of even number dated 30.04.1977 and 30.04.1992 is being adopted by the Corps of EME, thus discrimination in the Army is establishment which is required to be removed by granting in-situ promotion to the applicant to the rank of Assistant with effect from 24.11.2008.

(ii) All consequential benefits such 3rd MACP on 24.03.2012 may also please be granted to the applicant after grant in-situ promotion.

(iii) Facilities of Class-B Gazetted Officer may also be provided to the applicant under provision of DOPT order No.S.O. 946(E) 09.04.2009 because the applicant is already drawing the grade pay of Rs.4200/-p.m.

(iv) To direct the respondents to place applicant senior to Shri Saudan Singh who is appointed later is time in comparison to the applicant as he has been selected from earlier and thereby quash/amend seniority roll dated November, 2011.

(v) To direct the respondents to transfer Shri Saudan Singh instead of the applicant as the applicant senior to Shri Sudan Singh.

(vi) May also pass any further order(s) as be deemed just and proper to meet the ends of justice".

2. Heard Shri Amit Anand, the learned counsel for the applicant and Mr. Acharya Santosh Prasad Chaurasiya, the learned counsel for the respondents and perused the pleadings on record including the written arguments filed on behalf of the applicant.

3. Shri Amit Anand, the learned counsel appearing for the applicant, at the time of hearing of the OA, submitted that after filing of the OA, the applicant was promoted as Assistant.

4. In short, the applicant is seeking a direction to place him above the 5th respondent in the Annexure-G Seniority Roll of Lower Division Clerks (Corps of EME) as on 01.12.1983 and also a direction to absorb him in situ on promotion to the rank of Assistant with effect from 24.11.2008, on par with certain others.

5. In Annexure-G Seniority Roll of Lower Division Clerks (Corps of EME) as on 01.12.1983, the 5th respondent was shown at Sl.No.566 being his date of appointment on 22.03.1982 and the name of the applicant was shown at Sl.No.568 being his date of appointment on 24.03.1982. Basing on the said Seniority Roll, the applicant as well as the 5th respondent were promoted as UDCs and thereafter as Assistants, but the applicant challenged the said seniority roll, for the first time, through the medium of instant OA, filed in the year 2012 and which was got amended in the year 2013 by submitting that the said Seniority Roll came to light for the first time through the reply of the respondents in the OA. However, the said contention was specifically denied by the respondents by submitting that the Seniority Roll of all Centrally Controlled Civilian Categories were circulated every year and accordingly the units are

forwarding their correctness certificates and also enclosed the relevant letters along with their counter. Hence, the submission of the applicant that he was not aware of the seniority position of the 5th respondent till he receives the counter of the respondents in the OA, is unsustainable and unacceptable.

6. Further, once the date of appointment and confirmation of the 5th respondent was admittedly prior to the date of appointment and confirmation of the applicant, in the category of LDC, the applicant's submission that he should be placed above the 5th respondent cannot also be accepted and accordingly rejected.

7. With regard to the submission of the applicant that on his promotion from the post of LDC to the post of UDC, he should be promoted and absorbed in situ at the same place instead of promoting and posting him to Secunderabad, we agree with the submissions made by the respondents that placement of the employees, on their promotion, at different places including in situ promotions, are governed by the policy of the Government and also keeping in view the administrative exigencies. Like transfer, even the posting on promotion of a Government servant is also an incidence of service and that a Government servant cannot insist that on promotion he should be posted to a particular place of his choice.

8. In the circumstances and for the reasons mentioned above, we do not find any merit in the OA and accordingly the same is dismissed. No costs.