
(2012) 05 DEL CK 0546

In the Delhi High Court

Case No : Writ Petition (C) 2670 of 2012

Union of India and Others

APPELLANT

Vs

Gunwant Singh and Others

RESPONDENT

Date of Decision : 07-05-2012

Acts Referred:

Citation : (2012) 5 AD 730

Hon'ble Judges : V.K. Jain, J;Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : R.V. Sinha and Mr R.N. Singh and Ms Sangita Rai, for the Appellant;

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed, J.—This writ petition is directed against the order dated 11.01.2004 in OA No. 1459/2011, passed by the Central Administrative Tribunal, New Delhi. The plea before the Tribunal which had been raised by the respondent was with regard to his non consideration for the post of Assistant Executive Engineer which was a Group "A" post having a pre-revised scale of Rs 8000-11,500/-. The question was with regard to qualifications which the respondent possessed as a Foreman to be considered for promotion to the post of Assistant Executive Engineer. Before the Tribunal the parties have concentrated their arguments with regard to the interpretation to place Note 3 of the relevant Recruitment Rules. The Recruitment Rules essentially provided that when juniors were considered to be eligible and qualified for consideration for promotion, person senior to such junior would have relaxed eligibility conditions. The said Note 3 reads as under:-

(b) (i) Chief Draughtsman in the pay scale of Rs 6500-10500 with five years regular service in the grade possessing degree in Engineering from a recognized university or equivalent.

(ii) Chief Draughtsman in the pay scale of Rs 650-10500 with seven years regular service in the grade possessing diploma in Engineering from a recognized

university or equivalent.

Note-1: Promotion from (a) and (b) will be in the ratio of 4:1

Note-2: The feeder grade officers holding the posts of Assistant Engineer (including posts in Assistant Engineer (Selection Grade), Foreman and Chief Draughtsman on the date of notification of these revised rules are exempted from possessing the educational qualifications indicated above.

Note-3: Where Juniors who have completed their qualifying/eligibility service are being considered for promotion, their seniors shall also be considered provided they are not short of the requisite qualifying/eligibility service by more than half of such qualifying/eligibility service or two years, whichever is less and have successfully completed their probation period of promotion to the next higher grade along with their juniors who have already completed such qualifying/eligibility service.

Group ?A? Departmental Promotion Committee (for confirmation) consisting of:-

1. Joint Secretary (Ordnance) Ministry of Defence?Chairman
2. Director Electronics and Mechanical Engineer (Personnel) Army Headquarters?Member

2. Now, the learned counsel for the petitioner submits that while he is not disputing the interpretation placed by the Tribunal in so far as the said Note 3 is concerned, he is contesting the fact that the seniority itself is in doubt.

3. Unfortunately from the Original Application and the counter-affidavit filed before the Tribunal, this submission does not find any support. The respondent had taken the specific pleas with regard to the seniority position in paragraphs 3.9 and 3.10 of said Original Application. The same reads as under:-

3.9 That, however, the respondents totally ignored the submission made in the representations of the Applicant and declared the select panel for promotion as A.E.E. in respect of the following six Foreman (All Graduate Engineers) w.e.f. vide Memo dtd. 24.08.2010 (Annexure A/4). 23.08.2010 in complete disregard of the provisions of Note 3 of the statutory recruitments rules

Name

Posts

Vide S. No. of Seniority List

Position in Seniority List

(a)

Sh. R. Jaya Kumar

512

Army

Base

Wksp.

35

(b)

Sh. S. ChandrakantSwamy

512

Army

Base

Wksp.

36

(c)

Sh.Narendera Singh

506

Army

Base

Wksp.

50

(d)

Sh.SatyakamSrivastava

512

Army

Base

Wksp.

59

(e)

Sh. Manoj Kumar Dubey

506

Army

Base

Wksp.

61

(f)

Sh. PuranikJitendraParashuram

512

Army

Base

Wksp.

62

3.10. That based on the above said panel regular promotions have already been given to the above-said individuals between the period Oct., 2010. It is stated that all the six persons are junior to the Applicant, whose name appears at S. No. 21 in the seniority list against the position of the six persons in the Seniority List as indicated against their names.

4. This position has not been specifically denied by the petitioners in their counter- affidavit before the Tribunal:-

Paras-4.7 to 4.12: That the contents of the corresponding paras, except those being matter of record, are wrong, misleading and misconceived and hence vehemently denied. In view of the submissions made hereinabove, the contents of the corresponding paras of the OA need no further reply.

Thus, the submission raised by the learned counsel for the petitioner has no factual foundation. The seniority position which had been specifically set out by the respondent in his Original Application has not been controverted by the petitioner before us in their counter-affidavit filed before the Tribunal.

In fact, even in the writ petition, the position as indicated by the respondent in his Original Application has not been disputed. Consequently, there is no merit in the writ petition and the same is dismissed without any order as to costs.