

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**MUMBAI BENCH, MUMBAI.**

**ORIGINAL APPLICATION No.376/2016**

**Date of Decision: 6<sup>th</sup> January, 2020**

***CORAM: R. VIJAYKUMAR, MEMBER (A)***  
***RAVINDER KAUR, MEMBER (J)***

1. Prasad Deokar, age 43 years,  
Son of Narayan Hari Deokar,  
Residing at Survey No.38, Havaladar Mala,  
Vishranthwadi, Pune 411 015.
2. Ravindra Nivrutti Gaikwad, Age 40 years,  
Son of Nivrutti Shankar Gaikwad,  
Residing at 301, Riddhi, Javernagar  
Co-operative Society, Survey No.42/2/1,  
Ganeshnagar, Vadgaonsheri,  
Pune – 411 014.
3. Dr. Santosh Babaji Zaware, Age 39 years,  
Son of Babaji Gangaram Zaware,  
Residing at Flat No.11, Building C-1 C,  
Giridhar Nagar, Warje, Pune – 411 058.
4. Sheshraj Mangru Harinkhede, Age 40 years,  
Son of Mangru Dashrath Harinkhede  
Residing at 16/7, Type III, Range Hills Estate,  
Khadki, Pune – 411 020.
5. Surya Gagan Tiwari, Age 39 years,  
Son of O P Tiwari,  
Residing at Flat No.903, Park Spring,  
Porwal Road, Lohegaon,  
Pune – 41015
6. Sandeep Gorakh Lamkane, Age 35 years,  
Son of Gorakh Daji Lamkane,  
Residing at Flat No.3, Building B,  
Avadhut Apartment, Sahyadri Colony,  
Pimple Gurav, Pune – 411 061. ... Applicants

***All the applicants are working as Junior Works Manager  
(Technical/Chemical) in High Explosives Factory,  
Khadki, Pune – 411 003 )***

***( By Advocate Shri P.J. Prasadrao )***



**Versus**

1. Union of India  
Through the Secretary Ministry of Defence,  
Department of Defence Production  
South Block, New Delhi – 110 011.
2. The Director General of Ordnance Factories  
and Chairman, Ordnance Factory Board,  
10-A, Shahid Khudiram Bose Road  
Kolkata – 700 001.
3. The General Manager,  
High Explosives Factory, Khadki,  
Pune – 411 003.

... **Respondents**

**( By Advocate Shri R.R. Shetty)**

**ORDER (ORAL)**

*Per : Shri R. Vijaykumar, Member (A)*

**MA No.115/2017** for extension of time to file reply has become infructuous since the reply has been filed.

2. This Original Application has been filed on 01.03.2016 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

*“8(a) To allow this Original Application.*

*(b) This Hon'ble Tribunal be pleased to quash and set aside the order dated 22.12.2015 in so far as the applicants are concerned as alteration of their date of promotion after a period of 5 to 6 years is highly erroneous and invalid as they have assumed and performed duties of higher post without any reversion since 28.07.2010.*

*(c) This Hon'ble Tribunal be pleased to direct the respondents not to alter the dates of their seniority and retain the original seniority notified in the orders dated 28.07.2010 as they were promoted and they have*



*continuously performed the duties in the post of Junior Works Managers.*

*(d) This Hon'ble Tribunal be pleased to direct the respondents not to re-fix the salary of the applicants and stay the operation, execution and implementation of the order dated 22.12.2015 basis as they have performed duties and earned the increments which cannot be reduced at this belated stage.*

*(e) This Hon'ble Tribunal be pleased to grant ad-interim relief in terms of prayer clause 'D' above.*

*(f) This Hon'ble Tribunal be pleased to allow the Joint Application under Rule 4(5) of the Central Administrative Tribunal Rules, 1987.*

*(g) Any other and further order or orders as deemed fit in the interest of justice.*

*(h) Cost of this application be provided for.*

3. The applicants were serving as Chargeman Grade I (Chemical) with the respondents when they were extended benefit of promotion, by diverting the vacancies falling under the Mechanical discipline in the promotional post of Assistant Foreman by the exercise of powers conferred on the respondents, in the year 2009 after conferring such promotions to the full extent of availability of Chargeman Grade I (Mechanical) persons in the feeder category. Subsequently, the posts of Chargeman Grade I and Grade II were merged as Chargeman pursuant to the recommendations of the 6<sup>th</sup> CPC w.e.f. 01.01.2006. As a consequence, the respondents were obliged to consider the claims of Chargeman (Mechanical) who,



therefore became qualified for promotion to the Assistant Foreman/JWM(Mechanical) posts which were available for these eligible Mechanical discipline persons in the grade of Chargeman.

4. Following this, the respondents withdrew certain promotion orders in respect of Chargeman (Electrical and Chemical) who had been promoted in 2010 and in regard to whom vacancies were no longer available by virtue of the availability of Chargeman (Mechanical) w.e.f. 01.01.2006.

5. During the earlier hearing of this Tribunal, it was brought to attention of the Bench that OA No.274/2016 was being considered by the Principal Bench of this Tribunal and the Principal Bench had decided that all similar matters pending before different Benches should be kept in abeyance pending the final decision of the Principal Bench. This OA was kept pending awaiting orders of the Principal Bench. Such orders were passed on 04.04.2019 by the Principal Bench in OA No.274/2016 and the issue now before us is the applicability of these orders to the present case of the applicants.



6. Learned counsel for the applicants vehemently argues that the present applicants belong to the Chemical discipline and they had received the benefit of this promotion against vacancies diverted from the Mechanical discipline although this benefit was similarly accord to persons who belong to Chargeman (Electrical) category. He argues that the order of the Principal Bench only speaks about persons in the Electrical discipline and does not consider the Chemical discipline. Further, he submits that no show-cause notice or opportunity was given to the applicants before taking a decision that affected them adversely which was essentially a reduction from the promoted category to their substantive post. Learned counsel also argues that in such a instance, the respondents could well have accommodated them by creating supernumerary posts or by adjusting them against any future vacancies, especially since the promotion had been given to the applicants as far as back as the year 2010 and the reversion occurred following orders of respondents dated 22.12.2015.



7. The respondents have filed their reply on 20.02.2017 and they have elaborately clarified the decision in regard to the applicants. It has been brought out that the respondents had prepared an All-India seniority list for the post of Chargeman and one draft seniority list so prepared by a 'Task Force' appointing for this purpose was circulated to all concerned to submit representations in OFS circular No.3265/CM/T&NT/SNTY/2009/A/NG dated 25.11.2014 (Annexure R-3) and after receipt of representations, the seniority list of Chargeman was revised and again published on 20.04.2015 and from this exercise, a final seniority list of Chargeman as on 01.01.2009 was published on 07.08.2015.

8. The objections of the applicants to the process undertaken by the respondents is set out in the relief claimed in para 8'b' that, as a result of the merger of Chargeman Grade-I and II into the single post of Chargeman, the persons who became available for promotion in the Mechanical discipline had to be promoted in 2010 and as a result,



vacancies were no more available for diversion to persons from the Electrical and Chemical disciplines. As a result, although the applicants were not reverted from the higher post of Assistant Foreman/JWM to Chargeman, the result was that their seniority was depressed in accordance with their seniority in their respective feeder disciplines and they lost their seniority in the supervisory cadre (merged as JWM) with reference to the persons from Mechanical discipline who now entered by virtue of the merger of the posts of Chargeman Grade-I and Grade II. Therefore, the applicants argue that when they have actually worked in the supervisory cadre from the year 2010 itself, their position in the seniority list cannot be adjusted downwards to their disadvantage by placing persons who became eligible by virtue of merger from 01.01.2006 and who therefore got promoted notionally earlier to the applicants, higher in the seniority list.

9. Learned counsel for the applicants was heard at length on the issues raised by him and with reference to the orders of the Principal Bench in OA No.274/2016 and



learned counsel for the respondents was also heard with reference to the replies and the facts of the application. It is seen from the orders of the Principal Bench that except for the claim of the applicants that the orders of the Principal Bench related to Electrical discipline, all the other issues have been brought out by the applicants in that OA before the Principal Bench and this Bench is consequently bound by the decision of the Principal Bench as recorded in those orders. Further, in respect of the argument of the learned counsel for the applicants that those orders referred to the Electrical discipline and not to the Chemical Discipline, there is no dispute that whatever benefits of promotion were received by the applicants in that OA before the Principal Bench and similarly placed persons in the Chemical discipline by virtue of the orders of the respondents and the reversions that were also ordered subsequently, applied *mutatis mutandis* to all persons not falling in the Mechanical discipline namely, the Electrical and Chemical disciplines. Therefore the attempt to draw a distinction



between the Electrical and Chemical disciplines by the applicants is fallacious and is clearly unacceptable.

10. At the conclusion of lengthy arguments to present his case, learned counsel for the applicants conceded that the applicants were issued notice for determination and issuance of the final seniority list for the post of Chargeman. The procedure followed by respondents clearly afforded ample opportunity to applicants and they cannot have any grievances in this respect.

11. In the circumstances, this Original Application is devoid of merits and is dismissed without any order as to costs.

(Ravinder Kaur)  
Member (J)

(R. Vijaykumar)  
Member (A)

ma.

JD  
08/01/20



