CENTRAL ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No.17/2017 with OA Nos.661, 668, 667, 657, 659 and 658 of 2016

Dated this Wednesday, the 29th day of January, 2020

CORAM : DR. BHAGWAN SAHAI, MEMBER (A)
SMT. H.P.SHAH, MEMBER (J)

(1) OA No.17/2017

1. Ghansham Subhash Bhalare, 40 years,
Son of Subhash Bhagirath Bhalare,
Residing at C-14, Kamalkunj,
B.U. Bhandari Greens Co-operative Society Limited,
Survey No.15/1/2, Dhanori, Pune-411 015.

2. Dinesh Chandrakant Bhosale, 40 years,
Son of Chandrakant Shankarrao Bhosale, Residing at 7/7,
Type-3, Range Hills Estate, Khadki, Pune – 411 020.

3. Rajkumar Shamrao Patil, 45 years,
Son of Shamrao Pandurang Patil, Residing at H.No.500/9,
1st Lane, Jaymalanagr, Old Sangavi, Pune – 411 027.

All are working as Junior Works Managers (Electrical) in High Explosive Factory, Kirkee, Pune 411 003. **.. Applicants**

VERSUS

1. Union of India, The Ministry of Defence, Through Secretary,
Department of Production, South Block, New Delhi 110 011.

2. The Director General and Chairman,
Ordnance Factory Board, 10-A, Shahid Khudiram Bose
Road, Kolkatta 700 001.

3. The General Manager, High Explosive Factory,
Kirkee, Pune 410 003. **- Respondents**

(2) OA No.661/2016

1. Kailas Chandra Mohanty, 53 years, Son of Magadi Mohanty,
Residing at C4/G1, Mohanpuram, Sai Kansai Section,
Ambernath (E), Thane District – 421 501.

2. Gopinadhan P.V., 43 years, Son of Late M Kammaran,
Residing at F-17, Ordnance Estate, Ambarnath (E),
Thane – 421502.

3. S. Jai Sanker, 44 years, Son of D. Sunderesan,
Residing at F-16, Ordnance Estate,
Ordnance Estate, Thane – 421 502.

4. Samit Bhaumik, 44 years, Son of late Ashok Kumar
Bhaumik, Residing at F-13, Ordnance Estate, Ambarnath
(W), District Thane-421 502.

5. Uday Krishna Kalekar, 44 years, Son of Krishna B. Kalekar,
Residing at 008, Second Floor, Gurumauli Apartments,
Near Mauli Nagar, Old Katrap Road, Kulgaon,
Badlapur (East)-421 503.

6. Vinit Ekanath Nehate, 41 years, Son of Eknath Dodhu
Nehate, Residing at Flat No.302, Shri Siddhivinayak
Co-operative Housing Society, Above Bank of Baroda,
Kulgaon, Badlapur (East) – 421 503.

All applicants are working as Junior Works Manager (Electrical) in
Machine Tool Prototype Factory, Ambarnath,
Thane 421 502. **.. Applicants**

VERSUS

1. Union of India, The Ministry of Defence, Through Secretary,
Department of Production, South Block, New Delhi 110 011.

2. The Director General and Chairman,
Ordnance Factory Board,
10-A, Shahid Khudiram Bose Road, Kolkatta 700 001.

3. The General Manager, Machine Tool Prototype Factory,
Ambarnath, Thane 421 502. **- Respondents**

(3) OA No.668/2016

1. Swapan Poddar, 47 years, Son of Late L.N. Poddar,
Residing at IX/6A, Ordnance Estate, Ambernath (W),
Thane – 421 502.

2. Umesh M. Lavangale, 41 years, Son of Madhukar R.
Lavangale, Residing at 703, B-Wing, Tulsa Garden, B Cabin
Road, Morivali Pada, Ambernath (E), Thane – 421 501.

3. Mahesh Pandurang Kadam, 42 years,
Son of Pandurang Ramchandra Kadam,
Residing at A/A-003 Om Sai Shrusti C.H.S.
Pakhadi Kharegaon, Kalwa (W), Thane-400 605.

4. Krishnakumar M., 44 years, Son of M.K. Kumaran, Residing at F-30, Ordnance Estate, Ambernath (W), District Thane-421 502.

5. Paras Abhimanyu Jadhav, 41 years, Son of Abhimanyu R. Jadhav, Residing at A/12, Madhuvan CHS, Plot No.5, Shivganga Nagar, Ambernath (E), Thane – 421 501.

6. Jayashree P. Ghorpade, 42 years, Daughter of Madhukar K. Kate, Residing at G-04, Sai Darshan Bldg., Motiram Park, Ambernath (E), Thane – 421 501.

7. A. Sathish Kumar, 42 years, Son of J. Arularaj, Residing at Flat No.A-1/201, Panvelkar Regency, Ambernath (W), Thane – 421 501.

All are working as Junior Works Managers (Electrical) in Ordnance Factory, Ambarnath, Thane 421 501. **- Applicants**

VERSUS

1. Union of India, The Ministry of Defence, Through the Secretary, Department of Production, South Block, New Delhi 110 011.

2. The Director General and Chairman, Ordnance Factory Board, 10, A Shaheed Khudiram Road, Kolkatta 700 001.

3. The General Manager, Ordnance Factory, Ambarnath, Thane 421 501. **- Respondents**

(4) OA No.667/2016

1. Laxmikant A Deshmukh, Age 42 years, Son of Ashok V Deshmukh, Residing at Flat No.A1/702 Ganga Dham Phase I, Bibwewadi, Pune 411 037.

2. Ashish Sudhakar Koche, Age 39 years, Son of Sudhakar V Koche, Residing at 20/12, Type III, Range Hills Estate, Khadki, Pune 411 020.

3. Dhanajay Bhiku Satav, Age 42 years, Son of Bhiku Vishnu Satav, Residing at 329, Ganesh Peth, Pune 411 002.

4. M.D.Shukla, Age 47 years, Son of Devidas V Shukla, Residing at Plot No. Udhyam Nagar, Pimpri, Pune 411 018.

5. Jagdish Dada Katarnavare, Age 36 years, Son of Dada Vishwanath Katarnavare, Residing at Survey

No.281, Anand Nagar, Dhanori Road, Lohgaon,
Pune 411 047.

6. Dipak V Deshmukh, age 44 years,
Son of Vishwas K Deshmukh, Residing at ¾ Type III,
Range Hills Estate, Khadki, Pune 411 020.

7. Smt. Vaishali Rajendra Jagtap, age 43 years,
Wife of Rajendra Jagtap, Residing at A3, A-Wing,
Shivdutta Residency, Tuljai Vasti, Akurdi, Pune 411 035.

8. Sambhaji T. Bhujbal, Age 43 years,
Son of Tukaram Bhujbal, Residing at C-12,
Lokpriya Nagari, Vishwanath Phase I, Dhanori Road,
Vishrantwadi, Pune 411 015.

9. Mukund Radhkrishna Kulkarni, Age 42 years,
Son of Radhakrishna Vishnu Kulkarni,
Residing at ICC Housing Society, Sector No.27/A,
PCNT, Pradhikaran, Pune 411 044.

10. Smt. Anita D. Jadhav, 41 years, Wife of Dattaraya Jadhav,
Residing at Chintamani Apartment, Sridharnagar,
Chinchwad, Pune 411 022.

11. Bhanuhdas B. Salunke, 44 years, son of Bapurao V.
Salunke, Residing at Flat No.1, Vrundavan Park,
Survey No.32/12, Ambegaon Budruk Pune-411 046.

12. Smt.Meenal Sagar Jadhav, 43 years, Wife of Sagar Jadhav,
Residing at E=6/103, Rohan Mithila, New Airport Road,
Lohegaon, Pune – 411 032.

13. Sudhakar K. Gaikwad, 45 years,
Son of Krishna R. Gaikwad, Residing at Flat No.204,
Sentosa Residency, Behind Mega Centre, Magarpatta,
Hadapsar, Pune – 411 013.

14. Ms.Deepa Subash Doshi, 42 years, Daughter of Subash
Doshi, Residing at DA/21, Clarion Park,
DP Road, Pune – 411 007.

15. Dhananjay S Namde, 42 years, Son of Shatrughna Y Namde,
Residing at Kshitij, Plot No.22, Lane 14 C, Rahul Society,
Vidhya Nagar, Lohgaon, Pune – 411 032.

16. Smt.Kirti Ashish Giri, 36 years, Wife of Ashish Kumar Giri,
Residing at Flat No.202, D Wing, Om Sai Residency,
Survey No.73/1/1, Pimple Gurav, Pune – 411 061.

17. Rajesh Kumar Das, 51 years, Son of Nageswar P. Das,
Residing at A-35, Shubhankar Apartment,
Aundh Road, Pune – 411 020.

18. Ms.Rupali Shivdas Dalvi, 41 years, Daughter of Shivdas
Dalvi, Residing at 4-B, B-4, Kamdhenu Estates, Sajjangad,
Pune Sholapur Road, Hadapsar, Pune – 411 028.

19. Ashish Kumar Giri, 41 years, Son Ram Adhar Giri,
Residing at Flat No.202, D Wing, Om Sai Residency,
Survey No.73/1/1, Pimple Gurav, Pune – 411 061.

20. Shaheer Ali, 44 years, S/o S.M. Abdul Hakkim,
Residing at 14/1, Type-IV (SIPOREX),
Range Hills Estate, Khadki, Pune – 411 020.

All the applicants are working as Junior Works Manager
(Technical/Chemical) In Ammunition Factory, Khadki,
Pune 411 003. **.. Applicants**

VERSUS

1. Union of India, Through the Secretary,
Ministry of Defence, Department of Production,
South Block, New Delhi 110 011.

2. The Director General of Ordnance Factories and
Chairman, Ordnance Factory Board,
10, A Shaheed Khudiram Road, Kolkatta 700 001.

3. The General Manager, Ammunition Factory, Khadki,
Pune 411 003. **- Respondents**

(5) OA No.657/2016

1. Anil Rapartiwar, Age 53 years, Son of Narsingarao
Rapartiwar, Residing at Survey No.17, Gan-Gajanan Society,
Koregaon Park, Pune 411 001.

2. Mohamedakbar Dharwadkar, age 56 years,
Son of Mohamedakbar Dharwadkar,
R/a Shivaji Majagi, Annu Apartment, Sudharshan Nagar,
Lane No.3, Pimple Garav, Pune 411 017.

Both are employed as Junior Works Manager (NT/Store) in
Ammunition Factory Khadki, Pune 411 03. **- Applicants**

VERSUS

1. Union of India, Through the Secretary,
Ministry of Defence, Department of Production,
South Block, New Delhi 110 011.

2. Director General and Chairman, Ordnance Factory Board,
10, A Shaheed Khudiram Road, Kolkatta 700 001.

3. The Senior General Manager, Ammunition Factory,
Khadki, Pune 411 003. **- Respondents**

(6) OA No.659/2016

1. Dilip Narayan Dhuri, 55 years,
Son of late Narayan G. Dhuri,
Residing at Flat No.6, A Wing, 'B' Cabin Road,
Ambarnath East, Thane District 421 501.

2. Suresh Kumar, 56 years, Son of A G Nair,
R/at 202 Subhada Apartment, Navare Nagar,
Ambarnath East, Thane – 421 501.

3. Sanjay Keshav Vishe, 43 years,
Son of late Keshav Babu Vishe, Residing at H.No.502,
Near Marathi School, Javsai Gaon, Ambernath West,
Thane – 421 502. **.. Applicants**

VERSUS

1. Union of India, Through Secretary,
The Ministry of Defence, Department of Production,
South Block, New Delhi 110 011.

2. Director General and Chairman, Ordnance Factory Board,
10-A, Shahid Khudiram Bose Road, Kolkatta 700 001.

3. The General Manager, Ordnance Factory, Ambarnath,
Thane District 421 502. **- Respondents**

(7) OA No.658/2016

1. Sandeep Rawjirao Desai, 45 years,
Son of Rawjirao Bapurao Desai,
Residing at G-5, First Floor, B-Cabin Road,
Radhe Govind Nagar, Ambarnath (E), Thane – 421 502.

2. Lalit V. Sanhal, 43 years, Son of Late Venugopal Sanhal,
Residing at 13, Venus Abode CHS Ltd. Sec-4,
Behind Dena Bank, Sreenagar, Thane(W)-400 604.

3. Digambar Dattatray Kulkarni, 42 years,
Son of Dattatraya Vishnu Kulkarni,
Residing at 10 'M' Wing, Radhe Govind Nagar,
'B' Cabin Road, Ambarnath (E)-421 501.

4. Kiran Harkisan Devdhekar, 42 years,
Son of Harkisan L. Devdhekar,
Residing at 24/1, New Type-III, Ordnance Estate,
Ambernath (W), District Thane-421 502.

5. J.M. Rameshkumar, 37 years, Son of J I Mathan,
Residing at Flat No.8, Padma Apartments,
Shivshakti Nagar, B-Cabin Road, Ambarnath (E),
Thane – 421 501.

All are working as Junior Works Manager (Mechanical) in Ordnance Factory, Ambarnath, Thane 421 501. **.. Applicants**

VERSUS

1. Union of India, The Ministry of Defence,
Through Secretary, Department of Production,
South Block, New Delhi 110 011.

2. The Director General and Chairman,
Ordnance Factory Board, 10-A, Shahid Khudiram Bose Road, Kolkatta 700 001.

3. The General Manager, Ordnance Factory, Ambarnath,
Thane 421 502. **- Respondents**

Appearance :

Shri P.J.Prasadrao, learned counsel for the applicants in all the OAs. Shri R.R.Shetty, learned counsel in OA.17/2017, Shri N.K.Rajpurohit, learned counsel in OA.Nos.657/2016, 658/2016, 659/2016, 667/2016 & 668/2016 and Shri Mohd. Naved Mulla, proxy counsel for Shri A.M.Sethna, learned counsel for respondents in OA.No.661/2016.

Order reserved on 30.09.2019
Order pronounced on 29.01.2020

ORDER
Per : Dr. Bhagwan Sahai, Member (A)

Since the subject matter involved in all these seven OAs is identical, with the consent of the learned counsels for the parties, they were clubbed together, have been heard together and are being decided by this common order.

These OAs have been filed by the applicants seeking quashing and setting aside of order dated 22.12.2015 (Annex

A-1) issued by Director General, Ordnance Factories, Kolkata altering dates of their earlier promotional orders as Junior Works Managers in different trades from Chargemen issued on 28.07.2010 in cases of applicants in OAs at Serial Nos.1 to 4 above, on 18.10.2011 and 30.08.2012 for applicants in OA at Serial No.5, on 15.11.2012 in case of applicant in OA at Serial No.6 and on 24.02.2011 and 22.06.2011 in case of applicants in OA at Serial No.7. They are seeking direction to the respondents not to alter their dates of earlier promotions and to retain their seniority published on 18.10.2011 and 30.08.2012 and not to re-fix their salary on notional basis from those dates. They have also sought cost of these OAs from the respondents.

After hearing the learned counsel for the applicants on 30.09.2016, interim relief was granted to maintain status quo with regard to pay and status of the applicants till the next date of hearing and has been continued till the OAs were finally heard on 30.09.2019.

2. Summarized facts:

2(a). The applicants in these OAs have stated that they were promoted from Chargemen Grade I to Junior Works Managers as per the following orders:

OA Nos.	Applicants Name	Date of revised promotion orders for JWM based on final centralized seniority list	Dates of Ordnance Factory orders promoting as JWM based on factory level seniority lists
17/2017	Ghansham S. Bhalare & 2 Ors.	22/12/15	28/07/10
661/2016	Kailash Chandra Mohanty & 5 Ors.	22/12/15	11/01/16
668/2016	Swapan Poddar & 6 Ors.	22/12/15	28/07/10
667/2016	Laxmikant A. Deshmukh & 19 Ors.	28/07/10	22/12/15
657/2016	Anil Rapartiwar & Anr.	22/12/15	18.10.2011 & 30.08.2012
659/2016	Dilip Narayan Dhuri & 2 Ors.	22/12/15	15/11/12
658/2016	Sandeep Rawjirao Desai & 4 Ors.	22/12/15	24.02.2011 & 22.06.2011

2(b). The earlier promotional orders were issued based on previously published seniority lists of Chargemen. Based on acceptance of recommendations of VI Central Pay Commission, and as per the order of Director General, Ordnance Factories dated 04.02.2011 (Annex A-9) the posts of Assistant Foreman (Group B) Non-Gazetted and Junior Works Manager (Technical) Group B were merged as Junior Works Manager (Technical) Group B Gazetted and the posts of Foreman / Store Holders (Group B Non-Gazetted) and Junior

Works Manager/ Non-Technical/ Store, Group B Gazetted were merged from 01.01.2006 in the posts of Junior Works Managers (Non-Technical/Store) Group B Gazetted in Pay Band II (Rs.9,300-34,800/- with Grade Pay of Rs.4,600/-) as per the CCS (Revised Pay) Rules, 2008 dated **29.08**.2008.

2(c). DOPT in OM dated 13.09.2012 issued guidelines/instructions regarding seniority of officers holding posts or grades in those grades which were merged in pursuance to acceptance of VI Central Pay Commission recommendations. It is claimed that alteration in the dates of their regular promotions to notional promotions will result in loss of seniority, downgrading of their pay on refixation, reduction of increments earned by them earlier as Junior Works Managers and also loss of future promotional prospects because the residency period for subsequent promotions will get extended. Hence these OAs have been filed.

2(d). In another OA No.2241/2016, this Bench of the Tribunal in its order dated 22.01.2016 stayed operation of the impugned order dated 22.12.2015 based on decision of the Principal Bench dated 13.01.2016 in OA No.161 of 2016.

3. Contentions of the parties :

In the OAs and during the arguments of their counsel on 30.09.2019, the applicants contend that -

3(a). before altering dates of their promotions by the impugned order, there were not issued any show cause notice and were neither heard nor given opportunity to make representations. Thus the principles of natural justice have not been observed;

3(b). as per Article 311 (2) of the Constitution, reduction in rank can be done only as a measure of penalty after conducting proper inquiry. But no such procedure has been followed by the respondents before issuing the impugned order. The respondents Nos.2 and 3 who have issued the impugned order are not the Competent Authority to alter dates of their promotions which can be done only after taking sanction of the Hon'ble President of India or any other authority to whom such powers have been delegated;

3(c). although there has been no recovery of the arrears from the applicant because of the altered dates of their promotions, they will be placed lower in the seniority list of Junior Works Managers which will have cascading effect on their future promotions;

3(d). they were promoted on regular basis as per the earlier orders, against existing vacancies and thereafter have continuously discharged duties as Junior Works Managers but because of the impugned order they have become junior and this lowering of their seniority would amount to reversion;

3(e). the impugned revised order of promotions has been issued by the respondents after two to three years of the earlier orders which is not permissible as per the Apex Court decision in case of **Chief Post Master General Vs. Living Media India Limited, AIR 2012 SC 1506** holding that condonation of delay is an exception and should not be used as an anticipated benefit for Government departments;

3(f). while issuing the revised promotional order dated 22.12.2015, prescribed procedure has not been followed by the respondents and therefore, it is liable to be set aside. Hence these OAs should be allowed.

In their reply filed on 29.03.2017 and arguments of their counsels on 30.09.2019, the respondents contend that :-

3(g). before implementation of VI Central Pay Commission recommendations, Non-Technical Supervisory Cadre in the Ordnance Factories Organization was as follows:

"Junior Works Manager (Non-Tech)
I
Foreman/Store Holder (Non-Tech)
I
Chargeman Gr. I (Non-Tech)
I
Chargeman Gr. II (Non-Tech)"

3(h). the posts of Chargemen Grade II (Non-Technical) were unit/factory based posts and their seniority was maintained by the respective Ordnance Factories. There was no centralized

All India Seniority List of Chargeman Grade II for promotion to the posts of Chargemen Grade I. Such promotions were granted by the respective Ordnance Factories on the basis of vacancies available with them. However, for promotions from the post of Chargeman Grade I (Non-Technical) to Foreman/Store Holder and Chargeman Grade I (Technical) to Assistant Foreman were made on the basis of Centralized/All India Seniority Lists of Chargeman Grade I in their respective disciplines, which were maintained centrally by the Ordnance Factory Board, Kolkata. Thus before implementation of VI Central Pay Commission recommendations, the Chargeman Grade II were promoted to Chargeman Grade I on the basis of Seniority List of Chargeman Grade II maintained by the respective factories but once they got promoted to Chargeman Grade I, particulars of all those Chargeman Grade I were forwarded by the respective factories to Ordnance Factory Board for preparing their centralized seniority lists;

3(i). since as per the VI Central Pay Commission recommendations, the post of Chargeman Grade I and Chargeman Grade II were merged and renamed as Chargeman with Grade Pay of Rs.4,200/- and the post of Assistant Foreman/Foreman/Store Holder were merged with Junior Works Managers with Grade Pay of Rs.4,600/- as per the Ordnance Factory order dated 04.02.2011. Because of this

merger, the post of Chargeman became feeder post for Junior Works Manager and the eligibility criteria became residency period of six years in the grade of Chargeman;

3(j). for promotion to the post of Junior Works Manager, therefore, the seniority of Chargeman Grade I had to be decided afresh. The main issue for deciding this was whether the crucial date for determining seniority should be the date of holding the post of Chargeman Grade I or Chargeman Grade II. This issue has been resolved by the DOPT OM dated 13.09.2012 stipulating that the seniority of the Government servants which existed on 29.08.2008 will be maintained i.e. the holders of post with higher pay scale or the posts which were the promotional post for a feeder grade, will rank en-bloc senior to those holding the posts having lower pay scales on the posts of feeder grade;

3(k). because of the above clarification issued by the DOPT, individuals who were holding posts of Chargeman Grade I (promotional post) on 29.08.2008 were to be treated as en-bloc senior to those who were still holding the post of Chargeman Grade II, the feeder grade post. Accordingly, the seniority list of Chargemen had to be recast for assigning proper seniority to the concerned persons.

To carry out this task of working out of seniority list of Chargeman after merger of the posts, vide Ordnance Factory

Board letter dated 07.05.2013 (Annex R-1), a task force was constituted which submitted its report on 21.11.2014 along with draft centralized seniority list of Chargeman. While recasting this seniority list of Non-Technical OTS and Store discipline, it was noticed that names of some incumbents were not included in the seniority list of Chargeman Grade I although they were actually holding those posts as on 29.08.2008 and therefore, those individuals were included in the draft seniority list of Chargeman by placing them en-bloc senior. That draft seniority list of Junior Works Managers thus prepared was circulated by the Ordnance Factory Board dated 18.11.2014. Paragraph No.9 of that order mentioned that the seniority list are also subject to revision of this Central Seniority List of Chargeman (Non-Technical/OTS/Stores) pending with the task force;

3(l). in view of this, the seniority assigned to the applicants earlier at the level of individual Ordnance Factories was not the finally settled seniority and the applicants in the present OAs belong to this category i.e. they became junior in the centralized seniority list to those who were already working as Chargeman Grade I on 29.08.2008. Therefore, the earlier promotions granted to the applicants as Junior Works Managers superceding their seniors were erroneous. Hence those promotions of the applicants had to be reviewed in terms

of the revised Central Seniority List. The applicants cannot claim to have a right to deprive their seniors of their right and therefore, the erroneous promotions granted to the applicants cannot be restored depriving those who are higher in the seniority;

3(m). by circulating the revised Central Seniority List dated 25.11.2014, adequate opportunity was provided to all concerned including the present applicants, to submit their representations. The representations received on that list were again referred back to the task force, which were duly considered as per the applicable rules and data obtained from the concerned factories and the seniority lists of Chargeman prepared by the task force were again revised and republished on 20.04.2015. Representations received against those revised seniority lists were again considered and the final seniority list of Chargeman as on 01.01.2009 was published on 10.08.2015. Thus, in the finally revised seniority list of Chargeman, those Chargeman who had not been included in the earlier seniority list of Chargeman Grade I were included, because of which the individuals such as the applicants got pushed down in comparison to those who were already working as Chargeman on 29.08.2008;

3(n). but to avoid reversion of the already promoted Junior Works Managers, additional vacancies were utilized from the

overall strength of Junior Works Managers by holding regular DPC with other disciplines for vacancies up to the year 2015-2016, and instead of reverting such persons, their promotions were made on notional basis as per the impugned order of Ordnance Factory Board dated 22.12.2015. Thus the individuals who were holding the posts of Junior Works Manager on 18.11.2014 i.e. when the revised seniority list of Chargeman was published, have been promoted from different dates. The applicants have tried to mislead the Tribunal by presenting the facts in a fabricated manner and there is no merit in them; and

3(o). the decision of the Principal Bench in an identical case dated 04.04.2019 in OA No.274/2016 held that since the applicants therein had not challenged the revised seniority list, alteration of dates of promotions based thereon could not be challenged. As the present applicants have not challenged the revised seniority list of Chargeman as on 01.01.2009 issued on 10.08.2015, based on which the promotions of applicants and others were reviewed and thereafter, appropriate dates of promotions were assigned to them by the respondents under 1989 Rules, they cannot seek retention of dates of their earlier erroneous promotions which were based on factory level seniority lists and not on centralized seniority lists of

Chargeman. In view of these facts and submissions these OAs be dismissed.

4. Analysis and conclusions:

4(a). We have carefully considered the contents of the OAs with their annexes, and replies filed by the respondents. The applicants in these OAs have not filed any rejoinders contesting submissions of the respondents in their replies. We have also considered the rival contentions in the arguments of the parties and the caselaw cited by the respondents.

4(b). The applicants in these OAs are seeking retention of dates of their earlier promotions instead of the altered dates of promotion as per the impugned order issued by the Ordnance Factory Board, Kolkata dated 22.12.2015. The undisputed facts in these OAs are these :

(i) The seniority lists of Chargeman Grade II are maintained at factory level but the seniority lists of Chargeman Grade I are maintained at central level by the Ordnance Factory Board, Kolkata.

(ii) The applicants were promoted on different dates in 2010, 2011 and 2012 (as given in above table) at the level of individual Ordnance Factories based on factory level seniority lists.

(iii) Based on VI Central Pay Commission recommendations, the posts of Chargeman Grade I and Grade II were merged and renamed as Chargeman in Pay Band II with Grade Pay of Rs.4,200/- and the posts of Assistant Foreman/Foreman/Store Holders were merged with the post of Junior Works Managers with Grade Pay of Rs.4,600/- as per Ordnance Factory order dated 04.02.2011.

(iv). The combined seniority lists of Chargeman and Junior Works Managers (Technical and Non-Technical) have been subsequently revised as per the instructions in DOP&T OM dated 13.09.2012 stipulating that seniority of the Government servants which existed on 29.08.2008, (the date of acceptance by Government of India of VI Central Pay Commission recommendations) is to be maintained and holders of posts of higher pay scales or posts which constituted promotional posts for the feeder grade will rank en-bloc senior to those holding the posts with lower pay scales or post in the feeder grades.

(v). For preparing centralized list of Chargeman (Technical and Non-Technical) as per the above DOPT OM, the Ordnance Factory Board constituted a seven-member Task Force by its order dated 07.05.2013. Based on recommendations of that task force, covering various aspects related to determination of seniority and methodology to be followed, the Ordnance Factory Board published on 25.11.2014 the draft seniority lists

of Chargeman (Technical and Non-Technical) as on 01.01.2009 onwards up to 01.01.2013. All concerned with those lists were given opportunity for submitting comments / representations by 10.12.2014. The representations received on those seniority lists were again referred to the task force and the draft seniority lists of Chargeman were again revised and republished on 20.04.2015. Representations received on those revised seniority list were also duly considered by the respondents as per the provisions under the rules and data received from the concerned factories and thereafter, a finally revised seniority list of Chargeman as on 01.01.2009 was published by the Ordnance Factory Board on 10.08.2015.

(vi) The main change in the revised seniority lists of Chargeman was inclusion of those individuals who were already working as Chargeman on 29.08.2008 and who have become senior as compared to other individuals like the present applicants who got promoted as Chargeman after that date.

(vii). Based on the finally revised seniority list, promotion orders of the individuals in Pay Band Rs.9,300-34,800/- plus Grade Pay of Rs.4,600/- had to be reviewed. This was done by the Review DPC and based on their recommendations, promotions of Chargeman (Non-Technical/Store), Assistant Foreman (Non-Technical/Store) to Junior Works Managers

were issued by the impugned order dated 22.12.2015 by which the earlier promotions of the applicants got converted into notional promotions because of their lower ranks in the finally revised seniority list of Chargeman.

(viii) In fact, in spite of lower ranks of the applicants in the revised seniority list, the respondents have not reverted them and in fact, they have given them the benefit of seniority by way of notional promotions.

4(c). The present applicants have not challenged the finally revised seniority lists of Chargeman published by the respondents on 10.08.2015 in which their seniority ranked lower, and based on which the review DPCs recommended the altered dates of their promotions. When the applicants have not challenged the finally revised seniority list, they cannot find fault with the subsequent logical follow-up action of the respondents taken based on that seniority list.

4(d). From the undisputed facts of the cases explained by the respondents as above, which have not been countered by the applicants, in our opinion, the action taken by the respondents is fully justified. It is based on detailed examination of the subject of determining seniority of the Chargeman and recommendations of the task force, based on which the finally revised seniority lists of Chargeman as on 01.01.2009 onwards were published on 10.08.2015 and the promotion orders have

been issued based on the recommendations of the review DPC. We do not find any flaw or infirmity in the action of the respondents. Therefore, we do not find any merit in these OAs, and they deserve dismissal. The same opinion has also been taken by the Principal Bench in its decision dated 04.04.2019 in OA No.274/2016.

5. Decision:

These OAs are dismissed. No costs.

(Smt. H.P.Shah)
Member (Judicial)

(Dr. Bhagwan Sahai)
Member (Administrative)

kmg/H.

JD
30/01