

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1733/2001 and
OA No.1931/2001
OA No.2000/2001

New Delhi, this the 26th day of May, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri Govindan S. Tampi, Member(A)

1. OA No.1733/2001

J.K. Jain
S/o Shri Jyoti Prasad Jain
Resident of Ladpur, Raipur Road
Dehradun ..

Applicant

2. OA No.1931/2001

Anil Kumar Gupta
S/o late Shri C.B. Gupta
R/o 12, Tapovan Enclave
Aamwala Tarla, Dehradun ..

Applicant

3. OA No.2000/2001

Bhopal Singh
s/o late Shri Laloo Singh
Resident of 60, Arya nagar
Block II, Dehradun ..

Applicant

(Shri Rajesh K.Sharma, Advocate for all the three
applicants)

versus

Union of India, through

1. Secretary
Ministry of Defence
South Block, New Delhi
2. Scientific Advisor to Raksha Mantri
Deptt. of Research & Development Organisation
Sena Bhavan, New Delhi
3. Director
Instrument Research & Development
Establishment Raipur
Dehradun (Uttranchal) .. Respondents

(Shri Ashish Nischal, proxy for Shri Rajinder
Nischal and Shri H.K. Gangwani, Advocates)

ORDER (ORAL)

Justice V.S. Aggarwal

By this common order, we propose to dispose of the all three applications, namely OA Nos. 1733/2001, 1931/2001 and 2000/2001 involving the common controversy. Since the controversy is identical, we are taking the facts from OA No. 1733/2001 in the case of J.K. Jain v. Union of India and others.

2. The applicant had joined the service in the year 1966. He was redesignated as Tradesman 'A' and promoted as Chargeman II and then promoted as Chargeman II against a regular vacancy after he passed the trade test. The next promotion was a selection post of Chargeman I. He was promoted with effect from 15.9.1992. In 1995, the post of Chargeman I was redesignated as Senior Technical Assistant. From 1995, the system was changed and further promotions were made after the individual was assessed by the Central Assessment Board looking at his performance, work ability, Annual Confidential Reports followed by an interview. The applicant was given promotion and he has been working as Technical Officer 'A'. He was served with a show cause notice dated 1.6.2001 indicating that this promotion as Chargeman I and Technical Officer 'A' had been cancelled. This was being done in pursuance of the decision in the case of Harnam Singh and others v. Union of India & Ors. in OA No. 835/1996 rendered on 21.8.1997. He was not given any chance of being heard. By virtue of the present application, he seeks quashing

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of the orders dated 1.12.1999 and 10.7.2001 and for a declaration that the promotion of the applicant should not be cancelled.

3. The application has been contested. It has been pointed that the present application is not maintainable because the order had been passed in compliance of this Tribunal's order of 21.8.1997 in OA No.835/1996 in the case of Harnam Singh and others (supra) and the order of 21.3.2001 in OA No.437/2000 in the case of J.K.Jain v. Union of India and batch. The judgements had to be complied with. The implementation of the judgements involved preparation of a combined seniority list of Chargeman II and the Precision Mechanics and review of all the Departmental Promotion Committees for the posts of Chargeman Grade I, Assistant Foreman and Foreman. In this process, the promotion of many individuals in various Labs and Establishments had to be postdated or they were reverted to the lower post since the total sanctioned strength in each grade could not be exceeded. Some of the similarly situated persons approached the Mumbai Bench of the Central Administrative Tribunal in the case of Mrs.Sobha A and anr.v. Union of India and others in OA No.1027/1996 which was decided on 4.3.1997. The said Bench of this Tribunal directed that in the interest of natural justice, show cause notices should be issued to the concerned individuals and thereafter fresh order should be passed. The respondents issued show cause notices to the applicants, but the Mumbai Bench ^{There-after}

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dismissed the applications. It is stated that there is no merit in the application.

4. The learned counsel for the applicants at the outset had contended that after so many years of their working at higher posts, presently they cannot be directed to be reverted in this regard.

5. The normal rule, of course is that a person who continues to work interruptedly for long period, ordinarily is not to be reverted, but herein the respondents' action is based on a direction of this Tribunal in OA No.835/1996 given on 21.8.1997. By virtue of the said decision in the case of Harnam Singh & Ors. (supra), this Tribunal had quashed the orders passed by the respondents dated 22.3.1996 and 19.4.1996 and a direction was given to convene a review Departmental Promotion Committee as per the rules and to consider the suitability of certain persons for promotion as Chargeman Grade-I and above from the date they had become eligible on the line of the action taken in the case of similarly situated Precision Mechanics. Acting on the same, the respondents had proceeded, but in the subsequent litigation, the Mumbai Bench of this Tribunal had directed that before any such order is passed, it would be appropriate that a show cause notice is issued to the concerned person. This is the decision of the Mumbai Bench of this Tribunal in the case of Mrs. Sobha A and others (supra). It is in pursuance of the same that a

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show cause notice even had been issued and thereupon the orders are being passed as per the directions of this Tribunal. Once it is so, the applicants indeed cannot claim any procedural deviation or a right merely because they are holding the posts for such a long time.

6. A review Departmental Promotion Committee took place as a result of the directions of this Tribunal. We are informed that these orders as a result of which this exercise has to be done have been upheld. Once the review Departmental Promotion Committee was held with the permission of the court, necessarily the applicants cannot make out a grievance out of it.

7. From the facts, it appears that the implementation of the judgement involved preparation of a combined seniority list of Chargeman II and the Precision Mechanics and review of the earlier Departmental Promotion Committees. In this process, the promotions of many individuals had to be postdated and some had to be reverted. All the applicants herein were given show cause notices and thereafter considering the same, the reversion orders had been passed. There is, therefore, no illegality to prompt us to interfere.

8. Resultantly, the applications, namely OA Nos.1733/2001, 1931/2001 and 2000/2001 being without

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merit must fail and are dismissed. No costs.

Announced.

(Govindan S. Tampi)
Member (A)

sns/

(V. S. Aggarwal)
Chairman