

Central Administrative Tribunal
Principal Bench: New Delhi.

OA No. 185/98

New Delhi, this the 26th day of March, 1998

(b)

Hon'ble Shri T.N. Bhat, Member (J)
Hon'ble Shri S.P.Biswas, Member (A)

1. Balbir Singh s/o Jagan Nath,
r/o village & Post office Kanonda,
Distt. Jhajjar (Haryana).
2. Mahesh Chand s/o M.L. sharma,
r/o 266-E-8/2, Mehrauli,
New Delhi.Applicants

(By Advocate: Shri Arun Bhardwaj)

Versus

Union of India through

1. Director General,
Research & Development R&D Organisation,
Directorate of Personal (RD27)
B Wing, Sena Bhawan, DHQ PO
New Delhi.
2. Director,
DESIDOC Matkalf House,
Delhi.
3. Scientific Advisor,
to the Ministry of Defence Research
& Development, R&D Organisation,

B Wing, Sena Bhawan, DHQ PO
New Delhi.

4. Chief of Personal,
DRDO Ministry of Defence,
B Wing Sena Bhawan,
DHQ New Delhi.Respondents

(By Advocate: Shri R.V.Sinha)

O R D E R

Hon'ble Shri T.N.Bhat, Member (J)

This matter was listed for hearing on
admission and interim relief on 23.3.1998. However,
with the consent of the learned counsel for the
parties, we heard them for final disposal of the OA.
We have also perused the material on record.

2. The grievance of the applicants in this OA is that even though they are performing a job which is entirely technical in nature they have been designated as Chargeman Gr.II (Non-technical). They have produced a number of documents to show that as Varitype Operator, they had been performing scientific/technical jobs requiring high degree of skill and intelligence and that even after being appointed on promotion to the post of Chargeman Gr.II they continued to perform the same duties and are even at present doing the same work.

3. The crux of the matter at issue is as to what should be the age of retirement so far as the applicants are concerned. In this regard, it is important to note that according to the rules governing the service conditions of the applicants in the Research & Development Organisation under the Ministry of Defence, a Chargeman Gr.II (Non-technical) retires at the age of only 58 years while the Chargeman Gr.II(Technical) retires on superannuation at the age of 60 years. The contention of the applicants in this case is that for all practical purposes they are working as Chargemen Gr.II (Technical) but that they have unfairly and illegally been designated as Non-technical Chargemen Gr.II.

4. The respondents have taken the plea that initially there were no avenues of promotion open to those who were working as Varitype Operators and that it was only with a view to give them one chance of promotion that they were given the grade of

Chargemen Gr.II, but that at the same time they were categorised as Non-technical Chargemen Gr. II. According to the respondents, the scope of judicial review in such matters is a limited one and the court / Tribunal cannot take upon itself the duties and responsibilities to categorise the different posts.

5. During the course of arguments, the learned counsel for the applicants took us through the various documents, a perusal of which shows that while on the one hand the Director concerned (Director, Defence Science Laboratory) had recommended that those persons who had earlier been working as Varitype Operators and were later categorised as Chargemen Gr. II (non-technical) should be re-categorised as Technical Chargemen Gr. II, as there was sufficient justification for such a course being adopted, the stand taken by the Directorate General, which is the highest body in the organisation, on the other hand, was that this recommendation could not be accepted. The reason given was that since the post of Chargemen Gr. II (Non-technical) was opened for promotion to Varitype Operators whose posts were added as one of the feeder cadre, there was no injustice done to the applicants by not re-categorising them as Chargemen Gr. II (Technical). Learned counsel for the respondents has reiterated the stand taken by the Directorate General, and on consideration of the rival contentions, we are inclined to agree with him. There is no authority for the view that a person holding technical post cannot be promoted to a

non-technical post or that a technical post cannot become a feeder cadre for a non-technical post, as contended by the applicants in this OA. The mere fact that as Varitype Operators the applicants were performing the work of a highly skilled and technical nature they would not be entitled as a matter of right to be categorised as Chargemen Gr. II (Technical) on their promotion. It is not disputed that initially Varitype Operators were not in the feeder cadre for promotion to the post of Chargemen Gr. II, if in order to give them the benefit of promotion they were included in the feeder cadre but subject to the condition that they shall be categorised as Chargemen Gr. II (Non-technical), this could not give them the right to claim re-categorisation as Chargemen Gr. II (Technical). This matter, in our considered view, was entirely within the discretion of the competent authority in the Organisation and there is hardly any legal justification for this Tribunal to act as some sort of an appellate authority in such matters.

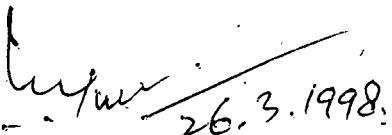
6. We may also refer to the objection regarding limitation raised by the respondents. Learned counsel for the respondents states that it was way back in 1987 that applicants were promoted to the post of Chargemennn Gr. II and they were specifically shown in the Non-technical category. This OA, having been filed in the year 1998, is, according to the learned counsel for the respondents, barred by limitation. In reply, the learned counsel appearing on behalf of the applicants, argues that it

was only on 28th day of August, 1997 that the respondents informed the applicants about the rejection of their representations by the document as at annexure A-10 and that limitation would start only from that date. There appears to be much force in the submissions of the learned counsel for the applicants in this regard. Although, as already mentioned, there has been intra-departmental correspondence on the subject between the officers of the Directorate and the Directorate General, yet there is not a single document produced by the respondents which would show that the applicants had been informed about the decision taken in the matter prior to 28.8.1997.

7. For the aforementioned reasons the objection regarding limitation raised by the respondents is hereby rejected. But since on merit we do not find any ground to sustain the claim of the applicants, this OA has to be dismissed. Accordingly, we hereby dismiss this OA, but without any order as to costs.


(S.P.Biswas)

Member (A)


(T.N.Bhat)

Member (J)

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