

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1838/96

New Delhi this the 11th day of September, 1998

16

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

1. Sh. M.C. Joshi,
S/o Sh. Hira Ram.
2. Sh. Janak Raj,
S/o Sh. Ramesh Chand Khanna.
3. Sh. Darshan Kumar Paneswar,
S/o Sh. P.S. Paneswar.
4. Sh. Subash Chander,
S/o Sh. Amar Chand.
5. Sh. Mohinder Singh,
S/o Sh. Mangat Ram.
6. Sh. D.K. Agarwal,
S/o late Sh. Shanti Sarup.
7. Sh. Ved Parkash Gupta,
S/o sh. Kunj Lal Gupta.
8. Sh. Surendra Kumar Sharma,
S/o late Sh. Nauhria Ram.

..... Applicants

(All applicants are C/O Sh. B.S. Mainee, advocate)

(through Shri B.S. Mainee, advocate)

versus

1. The Secretary,
Ministry of Urban Development,
Government of India,
New Delhi.
2. The Director General,
CPWD, Govt. of India,
Nirman Bhavan,
New Delhi.
3. The Executive Engineer(Elect.),
M&W Division,
CPWD, Govt. of India,
New Delhi.
4. The e.E. (Elect.),
CPWD, Elect. Division,
Smt. Suchita Kripalani Hospital,
New Delhi.
5. The Executive Engineer(Elect.),
Electrical Division IV,
CPWD, Pushpa Bhavan,
New Delhi.

6. The Executive Engineer(Elect.),
Elect. Division VI, CPWD,
Govt. of India,
Vidyut Bhavan,
New Delhi.

7. The Executive Engineer(Elect.),
Electrical Division XII, CPWD,
Govt. of India, Baba Kharak Singh
Marg, New Delhi.

..... Respondents

(through Sh. S.M. Arif, advocate)

ORDER

Hon'ble Shri S.P. Biswas, Member(A)

Applicants, Junior Engineers (Electrical) in C.P.W.D. Government of India are aggrieved by alleged illegal action on the part of the respondents in not giving them the benefits stipulated in O.M. dated 22.3.91 issued by the Ministry of Urban Development, Government of India. Consequently, the applicants have sought issuance of directions to respondents to extend the benefit of judgement of Bombay Bench in O.A.No. 866/93 decided on 19.7.95 in terms of placing them in Grade of Rs.1640-2900 1.1.86 and Rs.2000-3500 w.e.f. 1.1.86 and 1.1.93 respectively since they are similarly placed like the applicants in the aforesaid O.A. in Bombay Bench.

2. It is the case of the applicants that they were appointed initially in BEAS Construction Board as Section Officers in the year 1971 to 1975. They were diploma/degree holders in electrical engineering at the time of initial appointments. The employees of the BEAS Constructions Board were declared as Central Government employees by an order of the Hon'ble Supreme Court in the case of Jaswant Singh & Ors. Vs. U.O.I. & Ors. (AIR 1980 SC 115). In 1984 applicants alongwith a large number of other staff were declared surplus by the said Board and

18

they were taken on the rolls of Central (Surplus Staff) Cell under the DOP&T w.e.f. 1.12.84 for redeployment in other G.O.I. departments in corresponding pay scales they have been carrying. Thereafter vide Office Order dated 12.3.85, these surplus staff were given appointments pursuant to Government of India orders dated 21.1.85 and were redeployed as Junior Engineers in the grade Rs.425-700 in CPWD, Ministry of Urban Development. Similarly, some other Section Officers (Civil) appointed in Dhandakarnaya Project were rendered surplus due to shrinkage of establishment in the said project and were redeployed as Junior Engineers (Civil) in C.P.W.D. By 1985 all the applicants joined as Junior Engineers in the C.P.W.D. They were also allowed pay protection and the benefits of the past services. Thereafter, the Ministry of Urban Development vide their O.M. dated 22.3.91 decided to grant three major concessions in terms of pay scales as stipulated in the O.M.

3. The applicants allege that while placing them in grade Rs.1640-2900 the respondents have ignored their earlier services rendered in BEAS Construction Board before redeployment in C.P.W.D. The refusal of the respondents in not giving them the benefit of the previous services for eligibility to promotions in grade Rs.1640-2900 as also in the grade Rs.2000-3500 were contested by Junior Engineers in similar situation by filing an O.A.No.866/93 in Bombay Bench of this Tribunal. The Tribunal in its order dated 19.7.95 directed the respondents to grant those applicants higher scale of Rs.2000-3500 w.e.f. 16.2.93 in accordance with the O.M. dated 22.3.91. This is because the applicants therein had completed 16 years of service by

19

16.2.93. The applicants herein claim that they are similarly placed like those in OA-866/93 of Bombay Bench. Soon after the aforesaid judgement, the applicants submitted representation to respondents to extend the benefits of the Bombay Bench judgement since they fulfilled all the conditions for placement in both the grades. We find that the claims of the officials similarly placed were also decided by yet two Benches of this Tribunal in O.A.No.2241/91 and O.A.No. 1331/95 decided on 18.5.92 and 14.5.96 respectively. There is no dispute on facts that the applicants are similarly situated as the employees who were applicants in OA-1331/95 or in OA-2241/91. The only contention raised is that the applicants were not party to the aforesaid proceedings and that they have come before this Tribunal after considerable delay.

4. We find that yet another group of employees, identically placed like the applicants herein had agitated their grievances by filing an O.A.No. 739/94 before the Chandigarh Bench of this Tribunal. The Tribunal decided the case in favour of the applicants therein by granting them the reliefs stipulated under the Government of India's O.M. dated 22.3.91. The Government of India took up the matter before the Hon'ble Supreme Court in November 1996 through an S.L.P. No. 5360/97 which was dismissed on 29.7.97. Following the dismissal of the S.L.P., D.G. C.P.W.D. has issued instructions on 25.9.97 to extend the benefits but only to those who had filed the case in Chandigarh Bench.

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✓ 5. If the applicants are similarly placed as the applicants in other O.As. as aforementioned and that there is no other difference it would not be proper for the respondents to deny the benefits to the applicants herein solely on the ground that they did not approach this Tribunal earlier. Extending the facilities to the applicants cannot be sustained in terms of the law laid down by the Apex Court in the case of K.C. Sharma & Others Vs. U.O.I. & Ors. (1998(1) SLJ 54). It has been held therein that application filed by similarly placed persons should not be rejected for bar of limitation. We find that these very issues have been examined recently in details by the Co-ordinate Bench of this Tribunal (Principal Bench) in OA-1331/95 decided on 14.5.96. We are in full agreement with the decisions arrived therein.

✓ 6. Having regard to over all facts and circumstances of the case, we are of the opinion that there is no justification in denying the benefits which were otherwise available to the applicants, only on the ground of delay. Since the case of the applicants is covered by the decision of the Apex Court as aforesaid, no further elaborate discussion is necessary.

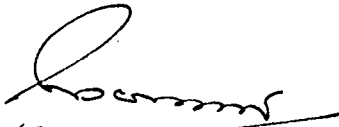
7. For the aforesaid reasons, the application is allowed. The respondents are directed to place the applicants in grade of Rs.1640-2900 w.e.f. 1.1.86 with all consequential benefits in the same terms and conditions

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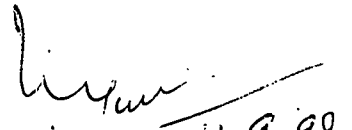
21

as per the decision in O.A.No. 1335/95 & MA-1902/95
decided on 14.5.96.

No costs.


(S.P. Biswas),
Member(A)

/vv/


11.9.98
(T.N. Bhat)
Member(J)