

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.462/96

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri R.K.Ahooja, Member(A)

(12)

New Delhi, this the 7th day of December, 1999

1. A.S.Tomar s/o Sh. Mukand Singh,
R/o C-21/14, Ordnance Factory
Estate, Dehradoon.
2. Sh. Sher Singh s/o Late Rattan
Singh, R/o QA-35/2 Old Area,
Ordnance Factory Estate,
Dehradoon.
3. D.P.Naitham S/o Late Ghanshyam
Naithem, R/o QA-71/5, Ordnance
Factory Estate, Raipur.
4. Shamsher Singh S/o Sh. Bhani
Ram, R/o Vill. & P.O. Raipur
(Near Tagore Niketan School
Raipur, Dehradoon.
5. Prem Nath S/o Late Sh. Bindree,
R/o 64-Bakrol Wala, Dehradoon.
6. K.K.Manhass S/o Late S.S.Manhas,
R/o 1, Old C. Place, Dehradoon.
7. R.K.Saxena S/o P.B.L.Saxena, R/o
131/3-H Ordnance Factory Estate,
Raipur, Dehradoon.
8. R.P.Bansal S/o Late Ram Swaroop,
R/o F-27, Kewal Vihar, Dehradoon.
9. M.R.Sharma S/o Late Sh. Mohanlal
Sharma, R/o P-23/1 Ordnance
Factory Estate, Raipur, Dehradon.
10. Ram Dhani S/o Late S.S.Prasad,
P-34/5 Old Area, Ordnance Factory
Estate, Dehradoon.
11. M.S.Sajwan S/o Sh. Dhooni Singh
R/o C-10/9 Ordnance Factory
Depot, Dehradoon.
12. K.D.Pandey S/o Sh. T.D.Pandey
R/o Kailash Barthwal Road,
Ladpur, Dehradoon.
13. R.A.Verma S/o Late Dal Chand, R/o
Sewak Ashram Road, Dehradoon.

All are working in Ordnance
Dehradoon (UP). ... Applicants

(By Shri V.P.Sharma, Advocate)

Vs.

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1. Union of India through the Secretary Ministry of Defence, Government of India, New Delhi.
2. The Director General Ordnance Factory Board 10-A, Auckland Road Calcutta (WB).
3. The General Manager Ordnance Factory, Dehradun (UP).
4. Shri B.S.Srivastava Chargeman-I (Store) Ordnance Factory, Dehradoon.
5. Sh. B.S.Thapa Chargeman - I (Store) Ordnance Factory, Dehradoon.
6. Sh. D.S.Rawat, Chargeman-I (Store), Ordnance Factory, Dehradoon.
7. Sh. C.M.Sharma, Chargeman-I (Store), Ordnance Factory, Dehradoon.
8. Sh. Ram Prasad, Chargeman-I (Store), Ordnance Factory, Dehradoon.
9. Sh. Nautiyal, Chargeman-I, Ordnance Factory, Dehradoon.
10. Sh. K.C.Pant, O.S. Gr.I, Ordnance Factory, Dehradoon.
11. Sh. S.C.Tewari (OS Gr.I), Ordnance Factory, Dehradoon.
12. Sh. B.B.Lal (OS Gr.I Ordnance Factory, Dehradoon.

(By Shri V.S.R.Krishna, Advocate)

O R D E R (Oral)

R.K.Ahooja, Member(A)

The applicants herein are Chargeman-II working in the Ordnance Factories. They are aggrieved by the impugned order dated 30.11.1995, Annexure-A1 whereby certain persons junior to them have been promoted as Chargeman Grade-I (Non Technical/Stores).

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2. The case of the applicants rests on the interpretation of the Recruitment Rules, Annexure-A5. These Rules, known as Indian Ordnance Factories Group C, Supervisory and Non-Gazetted Cadre (Recruitment and Conditions of Service) Rules, 1989, provide two categories of Chargeman, namely Chargeman Grade-I (Technical) and secondly Chargeman Grade-I (Non Technical and Stores). The Rules for filling up of the post of Chargeman has been described as follows:

"Promotion from Chargeman Gr.II or equivalent with three years of regular service in the grade in respective category."

3. According to the applicants there is no distinction between the stores and other non technical categories and therefore all the Chargeman-II working in various non technical streams are equally eligible for promotion to Chargeman Grade-I (NT/Stores). For this purpose the applicants submit that the respondents are required to prepare an inter-se combined seniority of Chargeman-II working in different streams of the non technical cadres. Promotions, according to the applicants, can be made only after such a combined inter-se seniority list is prepared.

4. The respondents, on the other hand, state that there are two distinct cadres of Chargeman Grade-I (Non technical). These are Chargeman Grade-I (Non Technical/Stores) and Chargeman Grade-I (Non Technical/OTS, i.e., Other than Stores). As per the impugned order appointments have been made of Chargeman Grade-I (NT/Stores) from amongst Chargeman

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Grade-II (NT/Stores) only. Since the applicants do not belong to such category hence they can have no claim for consideration for promotion against these vacancies.

5. We have heard the counsel. Shri V.P.Sharma, learned counsel for the applicant, relies on the decision of the Madras Bench of this Tribunal in S.Rajan & Others Vs. Union of India, represented by the Chairman, Ordnance Factory and Others (OA No.1067/93 with connected cases, decided on 9.6.1995). In that case, the incumbents of the post in Security Wing with more than 5 years service were aggrieved that persons other than those in the Security Wing were being considered for the post of Chargeman Grade-II (Security). The Tribunal noticed that by the amendment notified on 26.7.1991 the post of Chargeman could be filled from amongst Supervisor (Non-Technical/Stores) or UDCs or equivalent and Telephone Operator Grade-I with three years of regular service. On that basis the respondents were entitled to consider persons belonging to categories other than Security for promotion to the post of Chargeman Grade-II (Security). On that interpretation the OAs were dismissed. The learned counsel for the applicant submitted that the respondents themselves have taken a stand before Madras Bench that the post of Chargeman (Non Technical) was open to all the four streams and it was on that finding that the OA was dismissed by the Tribunal. On the same analogy, the learned counsel argued, the post of Chargeman Grade-I should also be filled from amongst all the four streams and

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the applicants herein who belong to other than stores category should also be considered for the promotion to Chargeman Grade-I (NT/Stores).

7. The learned counsel for the respondents, Shri Krishna on the other hand, referred to Rule 2 of the Recruitment Rules, 1989 which divides the Supervisor and Non Gazetted cadres into Technical and Non Technical. Non Technical category is described as "Non Technical and Stores". He also points out that the post of Chargeman is to be filled up by promotion on the basis of regular service in "respective" category. According to the learned counsel for the respondents this would indicate that promotion to Chargeman Grade-I is to be made from respective category, i.e., Stores. He also pointed out that by a letter issued on 8-11-1995 addressed to all the General Managers, the Ordnance Factory Board required that "the System of cut off date as used to be intimated in the past by OFB will be discontinued. The seniority list of Chargemen Grade-II (Stores and Chargeman Grade-II (other than stores) will be maintained at the factory level in accordance with the rules of seniority". This would indicate that seniority list of Chargeman Grade-II were to be maintained separately in respect of stores and other than stores category.

8. The learned counsel for the applicant argued that this letter which is in the nature of an administrative instruction cannot supersede the provisions of the Recruitment Rules which make no distinction between the two categories. We are

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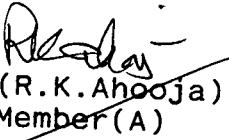
however unable to agree with the learned counsel for the applicant. It has come on record that the initial recruitment in the stores category is as Store Keeper rising to Supervisor (NT/Stores), Chargeman Grade-II (NT/Stores) and Chargeman Grade-I (NT/Stores)/Assistant Store Helper and Store Helper. The other than stores category are recruited either as LDC, go on to become UDC/Supervisor and Chargeman Grade-II and Chargeman Grade-I (NT/OTS) or alternatively they are promoted as Office Supervisor Grade-II and Grade-I. It does not stand to reason that LDCs/UDCs totally without experience and knowledge in stores procedures should straight away go to the supervisory post of Chargeman Grade-I without any intermediary stage on the stores side. It is true as pointed out by the learned counsel for the applicant that the Rules which have also been reproduced above, do not clearly indicate a separation between the stores and non stores categories. It is however possible to reconcile the interpretation given by the respondents inasmuch as both non technical and stores categories have been mentioned. In these circumstances, we must adopt the interpretation which appears to be more rational and logical. As already pointed out, if the interpretation suggested by the learned counsel is adopted a serious administrative anomaly arises inasmuch as persons wholly without experience on the store side would become eligible for supervisory posts on store side. This would lead ^{to} the ~~chaos~~ in the management of the stores. In this situation, the interpretation adopted by the respondents would appear to be more logical and rational. It would also appear from the letter dated

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8.11.1995 that the practice of keeping separate seniority list of stores and other than stores category is not of a recent origin but has been continuing for a long period.

9. In so far as the decision of the Tribunal in Madras Bench of this Tribunal in S.Rajan & Others (Supra) is concerned we find that the ratio of that decision is not strictly applicable to the present case. The Madras Bench was dealing with the question of promotions from the supervisory level to the post of Chargeman Grade-II in the Security Wing. On the other hand, the present OA relates to appointment of Chargeman Grade-I in the stores category. Therefore the decision of the Madras Bench cannot be of help to the case of the applicants herein.

10. In the light of the aforesaid discussion, we find no merit in the OA which is dismissed. There shall be no order as to costs.


(R.K.Aahooja)
Member(A)

/rao/


V.Rajagopala Reddy
Vice Chairman(J)