

(13)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

O.A.No.1020/1996

New Delhi: this the 29th day of May, 1997.

HON'BLE MR.S.R.ADIGE MEMBER(A)

HON'BLE DR.A.VEDAVALLI MEMBER(J).

1. Harish Chander,
S/o Shri Khasedu Singh,
R/o Village Chitoda,
Post: Noorpur,
Distt. Ghaziabad.
2. Satpal Tyagi,
S/o Shri Trilok Chand Tyagi,
R/o Old Type -I,
Ordnance Factory Estate,
Moradnagar.
3. Vinod Kumar Sharma,
S/o Shri Hargovind Dutt Sharma,
R/o: House No. 332,
Defence Colony,
Railway Road,
Moradnagar.
4. A.P.Shukla,
S/o Shri L.N.Shukla,
R/o : 22/ RA508-510,
Ordnance Factory Estate,
Moradnagar.
5. Satish Mohan,
S/o : Late Shri Mohan,
R/o Old Type-I,
Ordnance Factory Estate;
Moradnagar.
6. Chandra Shekhar Dam,
S/o Shri S.N. Dam,
R/o 118, Sainik Vihar,
Kankar Khera,
Meerut Cantt.
7. Satyender Nath Sharma,
S/o Late Shri D.N.Sharma,
R/o 8-H, Qr. No.24,
Ordnance Factory Estate,
Moradnagar.
8. Shyam Sunder Bali,
S/o Late Shri K.N.Bali,
R/o Old Type-I,
Ordnance Factory Estate,
Moradnagar. Applicants.
All are working as Mill Wright (H.S.-I),
Ordnance Factory, Moradnagar

(By Advocate: Shri B.B.Raval)

Versus

UNION OF INDIA through

1. the Secretary,
Ministry of Defence, GOI,

South Block,
New Delhi.

2. The Chairman,
Ordnance Factory Board,
Ministry of Defence,
Government of India,
10-A, Auckland Road,
Calcutta-700 001.

3. The General Manager,
Ordnance Factory,
Ministry of Defence,
Govt. of India,
Muradnagar.

..... Respondents.

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

JUDGMENT

BY HON'BLE MR.S.R.ADIGE, MEMBER (A).

Applicants impugn respondents' letter dated 23.6.94 (Annexure-A) and 8.7.94 (Annexure-B) and seek antedating of their seniority as Mill Wrights, HS Gr. I w.e.f. 18.4.90, the date from which the recommendations of Guha Committee were implemented. An MA for condonation of delay has also been filed.

2. Applicants belong to the Ordnance Factory, Muradnagar which is only one of the large number of Ordnance Factories under the Defence Ministry located in different parts of the country. Admittedly, pursuant to the need for rationalisation of trades in Industrial Establishments of Ordnance Factories, the Guha Committee was set up which considered various dead end trades (when there was stagnation due to non-availability of chances of promotion) and recommended their merger with similar trades and those recommendations were accepted by Govt. Applicants contend that consequent to the acceptance of the Guha Committee recommendations reallocated tradewise and gradewise sanctions were communicated to individual Ordnance Factories. Attention in this connection has been invited to OFB's letter dated 17.8.89 addressed to the G.M. Ordnance Clothing Factory, Shahjehanpur intimating reallocated tradewise and gradewise sanctions after rationalisation as per

Guha Committee recommendations applicable to that Factory. Particular attention has been invited to para 4 of that letter wherein it has been stated that many trades not affected by the Guha Committee recommendations have been clubbed together for the purpose of viability and the clubbing can be changed by the Factory. Applicants contend that in some Ordnance Factories, Managements with initiative taking advantage of such instructions, clubbed trades together as a result of which the overall strength of the trade/cadre and consequently the number of promotional posts increased and then made promotions to these posts from 1990 itself. They pray for a similar approach in Ordnance Factory, Moradnagar also.

3. We have heard applicants' counsel Shri Rawal. We also permitted one of the applicants Shri S.N. Sharma to address us. He explained that in the Mill Wright trade 65% posts are to be in skilled category; 20% in High Skilled Grade II and 15% in Highly Skilled Grade I. He averred that because of the very small number of promotional posts of Mill Wright H.S.Gr.I (only 5) in a total strength of around 32 in the Ordnance Factory, Moradnagar, the Factory Management there had succeeded in getting 10 posts of Mill Wright HS Gr.I diverted from elsewhere and thus made promotions against 15 posts of Mill Wrights Gr.I in OF Moradnagar in 1994, and had thereby given a go by to the percentage prescribed above, Shri Sharma's argument was that if this could be done with effect from 1994, could it not be dated back to 1990, that is from the date of acceptance of the Guha Committee

recommendations which he claimed was the date from which trades were clubbed together and promotions granted in other Ordnance Factories.

4. The reply which has been filed by respondent (Shri VSR Krishna, ACGSC who appeared however stated that he was appearing on behalf of all the respondents, namely (i) UOI through Defence Secretary ; (ii) Chairman OFB and (iii) G.M. O.F. Moradnagar) and has been signed only by the Dy. G.M. Admin. O.F. Muradnagar, states that promotions are based on vacancies available in their own trades/grades and seniority cannot be computed with reference to other trades. It has also been stated in reply that this OA has been filed with delay and is fit to be dismissed on ground of limitation under sec 21 A.T. Act.

5. We shall take the ground of limitation first. This OA was presented in the Registry on 22.4.96. It seeks relief from 18.4.90 and is therefore clearly time barred. Even if the cause of action is taken to run from respondents' letters dated 23.6.94 and 8.7.94, the OA is hit by limitation under section 21 A.T. Act. It cannot be argued that the claim for back dating of promotion to 18.4.90 prayed for, constitutes a continuing cause of action and is therefore not hit by limitation. If that argument were to be accepted, a person who is rejected for appointment in a particular year may appear 20 years later, claiming that his cause of action still survives, because had he been appointed in that particular year, he would have drawn a salary and promotions from which he is now deprived. The contention that the matter was also separately being agitated in JOM, does not extend the limitation period.

A

6. In para 16 of ^{in judgement in L.Chandrabhushan vs UOT in} LT 1997 (3) SC 589 the Hon'ble Supreme Court has held that the Tribunal has no power to condone delay. To quote

"Section 21 specifies strict limitation periods and does not vest the Tribunals under the Act with the power to condone delay."

7. Under the circumstance, we are unable to grant the relief prayed for by the applicants. However, before parting with the case and without it being construed as any order or direction to respondents we trust that in the event applicants file a self-contained representation addressed to Respondent No.2 (OFB) through Respondent No.3 (GM OF Muradnagar), Respondent No.2 will examine expeditiously how far uniformity in promotion ^{between} prospects can be brought about ~~between~~ different trades within an Ordnance Factory and between different Ordnance Factories.

8. This OA is disposed of in terms of paragraph 7 above. No costs.

A.Vedavalli
(DR.A.VEDAVALLI)
MEMBER(J)

Krishna
(S.R.ADIGE)
MEMBER (A).

/ug/