CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

New Delhi this the 22nd Day of December, 1995.

Hon'ble Sh. N.V. Krishnan, Acting Chairman
Hon'ble Sh. A.V. Haridasan, Vice-Chairman (J)
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

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1. OA No.2601/94

1. Sh. A.K. Mukhopadhaya,
S/o Sh. K.B. Mukherje.

2. Sh. Nikhil Sarkar,
S/o Late Sh. T.D. Sarkar.

3. Sh. B.P. Pathak,
S/o Late Sh. Haridwar Pathak.

4. Sh. R.M. Pandey,
S/o Sh. Gopi Krishan Pandey.

5. Sh. K.K. Dubey,
S/o Late Sh. C. Dubey. ...Applicants

(All working as Chargeman Grade-I in Grey Iron Foundary, Jabalpur)

(By Advocates Sh. Y.K. Tankha & Sh. K.Dutta)

Versus

1. General Manager,
Grey Iron Foundary,
Jabalpur.

2. General Manager,
Vehicle Factory,
Jabalpur.

3. Chairman/Director General,
Ordnance Factory Board,
10-A, Auckland,
Calcutta-1. ...Respondents

(By Sh. Ramesh Darda, Additional Standing Counsel with Mrs. Raj Kumari Chopra and Sh. V.S.R. Krishna, Advocates)

2. OA No.2589/94

1. Sh. D.Lokhande,
S/o Sh. Dattatraya.

2. Sh. Om Prakash,
S/o late Sh. A.P. Manna.

3. Sh. Narayanan,
S/o late Sh. M.S. Ramaswamy Iyer.

4. Sh. V.A. Bothe,

S/o Sh. A.B. Bothe.

5. Sh. C.R. Ray,
S/o late Sh. H.C. Ray.

6. Sh. S.L. Gehani,
S/o late G.H. Gehani.

7. Sh. M.K. Gupta,
S/o Sh. R.L. Gupta.

8. Sh. D.W. Chouhan,
S/o late Sh. W.D. Chouhan.

9. Sh. C.M. Talwar,
S/o Sh. R.S. Talwar.

10. Sh. R.K. Parwar,
S/o Sh. J.D. Parwar.

11. Sh. K.M. Chaturvedi,
S/o late Sh. K.L. Chaturvedi.

12. Sh. R.D. Pillai,
S/o Sh. M.S. Pillai.

13. Sh. K.K. Rajoria,
S/o late J.K. Rajoria.

14. Sh. O.P. Garg,
S/o late Sh. K.P. Garg.

15. Sh. M.S. Ahluwalia,
S/o late Dr. Nirmal Singh.

16. Sh. D.N. Savita,
D/o Sh. P.L. Savita. ...Applicants

(All C/o Sh. O.P. Garg, 2210, Wright Town, Jabalpur (MP)

(By Advocate Sh. S. Nagu)

Versus

1. Union of India through
Secretary,
Ministry of Defence,
New Delhi.

2. Chairman,
Ordnance Factory Board,
10-A, Auckland Road,
Calcutta.

3. General Manager,
Ordnance Factory,
Khamaria,
Jabalpur (MP). ....Respondents

(By Advocate Sh. B. D'silva)

3. OA No.82/95

1. Sh. S.C. Arora,
S/o late Sh. Brij Lal Arora,
Foreman Tennary Section,
O.E.F. Kanpur,
R/o 193, N Block,
Kidwai Nagar,
Kanpur.

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2. Sh. V.S. Pardal,
S/o late Sh. Sardari Lal Pardal,
R/o 3/12, Defence Colony,
Shanti Nagar,
Kanpur.

(By Advocate Sh. S. Nagu)

Versus

1. Union of India through
Secretary, Ministry of
Defence (Deptt. of Defence
Production),
New Delhi.

2. The Chairman,
Ordnance Factory Board,
10-A, Auckland Road,
Calcutta.

3. The Additional Director General,
Ordnance Factories,
O.E.F. Hqrs,
G.T. Road,
Kanpur.

4. The General Manager,
Ordnance Equipment Factory,
Kanpur.

...Respondents

(By Advocate Mrs. Raj Kumari Chopra)

4. OA No.14/95

1. Sh. T.Satyanarayana,
Asstt. Foreman (T)/(Mech),
Ordnance Factory,
Yeddumailaram,
Medak.

(By Advocate Sh. G. Parameshwara Rao, though none appeared)

Versus

1. The Union of India rep. by
its Secretary,
Ministry of Defence,
New Delhi.

2. The Chairman,
Ordnance Factory Board,
10-A, Auckland Road,

Calcutta.

3. The General Manager,
Ordnance Factory Project,
Yeddumailaram,
Medak.

...Respondents

(By Advocate Mrs. Raj Kumari Chopra)

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5. OA No.15/95

Sh. Gangadharappa,
Asstt. Foreman (T)/Mech,
Ordnance Factory,
Yeddumailaram,
Medak.

...Applicant

(By Advocate Sh. G. Parameshwara Rao, though none appeared)

Versus

1. The Union of India rep. by
its Secretary,
Ministry of Defence,
New Delhi.

2. The Chairman,
Ordnance Factory Board,
10-A, Auckland Road,
Calcutta.

3. The General Manager,
Ordnance Factory Project,
Yeddumailaram,
Medak.

...Respondents

(By Advocate Mrs. Raj Kumari Chopra)

6. OA No.80/95

Shri Mihir Kumar Chatterji,
son of late Ashutosh Chatterji,
R/o Dutta Para, P.O. Santipur,
Distt. Nadia,
West Bengal.

...Applicant

(By Advocate Sh. P.K. Munsi, though none appeared)

Versus

1. Union of India through the
Secretary,
Ministry of Defence,
Govt. of India,
New Delhi.

2. Chairman,
Ordnance Factory Board,
10-A, Auckland Road,
Calcutta.

(C

3. General Manager,
Rifle Factory,
Ichapore,
P.O. Ishapore,
Nawabganj, Distt.24,
Parganas(North). ...Respondents

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(By Advocate Sh. V.S.R. Krishna)

7. OA No.2596/94

1. Sh. S.K. Narain
S/o Sh. R.K. Narain,
Asstt. Foreman, V.P.P.
Vehicle Factory,
Jabalpur.

2. Sh. A.R. Pal,
S/o Sh. A.K. Pal,
Asstt. Foreman,
Standard Office,
Vehicle Factor,
Jabalpur.

3. Sh. K.K. Gupta,
S/o Sh. B.D. Gupta,
Asstt. Foreman,
S.E.A.,
Vehicle Factory,
Jabalpur.

4. Sh. D. Majumdar,
S/o Sh. B.B. Majumdar,
Asstt. Foreman,
QAT,
Vehicle Factory,
Jabalpur.

5. Sh. H.K. Bhattacharya,
S/o Sh. D.K. Bhattacharya,
Asstt. Foreman, F&P,
Ordnance Factory,
Khamaria,
Jabalpur.

6. Sh. H.K. Dutta,
S/o Sh. A.K. Dutta,
Asstt. Foreman,
Cab,
Vehicle Factory,
Jabalpur.

7. Sh. B.K. Chakraborty,
S/o Sh. J.C. Chakraborty,
Asstt. Foreman, F-1,
Ordnance Factory,
Khamaria, Jabalpur.

8. Sh. Laxman Prasad,
S/o Sh. Rama Prasad,
Asstt. Foreman F-1,
Ordnance Factory,
Khamaria,
Jabalpur.

9. Sh. Sudarshan Singh,
S/o Sh. Subedar Singh,
Asstt. Foreman F-4,
Ordnance Factory,
Khamaria,
Jabalpur.

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10. Sh. M.K.Shukla,
S/o Sh. K.K. Shukla,
Asstt. Foreman R&E,
Vehicle Factory,
Jabalpur.

11. Sh. J.P.S. Badwal,
S/o late Sh. Harjinder Singh,
Asstt. Foreman, R&E,
Gun Carriage Factory,
Jabalpur.

12. Sh. D.N. Singh,
S/o Sh. S.N. Singh,
Asstt. Foreman,
T.R. II,
Vehicle Factory,
Jabalpur.

13. Sh. Kishanlal,
S/o Sh. Atma Ram,
Asstt. Foreman, ETP,
Vehicle Factory,
Jabalpur.

14. Sh. S.K. Sil,
S/o Sh. N. Sil,
Asstt. Foreman, G.S.
Vehicle Factory,
Jabalpur.

15. Sh. M.P.S. Saini,
S/o Sh. G.S. Saini,
Asstt. Foreman, B.O.
Gun Carriage Factory,
Jabalpur.

...Applicants

(By Advocate Sh. S. Paul)

Versus

1. Union of India through
the Secretary,
Ministry of Defence,
Govt. of India,
New Delhi.

2. Chairman,
O.F.B., 10-A, Auckland Road,
Calcutta.

3. General Manager,
O.F. Khamaria,
Jabalpur.

4. General Manager,
Vehicle Factory,
Jabalpur.

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5. General Manager,
Gun Carriage Factory,
Jabalpur.

...Respondents.

(By Advocate Sh. Satish Chander Sharma)

8. OA No.61/95

B.M. Chaturvedi,
R/o Q.No. Class VII/2-A,
Ordnance Estate,
Ambernath.

....Applicant

(By Advocate Sh. S. Nagu)

Versus

1. Union of India
through Secretary,
Govt. of India,
Ministry of Defence Production,
North Block,
New Delhi.

2. The Chairman,
O.F.B. 10-A, Auckland Road,
Calcutta.

3. The General Manager,
O.F. Ambernath.

...Respondents

(By Advocate Mrs. Raj Kumari Chopra)

9. OA No.64/95

1. Sh. Virendra Kumar,
S/o Sh. Krishna Prasad,
Asstt. Foreman, O.F.
Chanda.

2. Sh. M.L. Chokhani,
S/o late Sh. C.L. Chokhani,
Asstt. Foreman, O.F.
Chanda.

3. Sh. A.N. Sharma,
S/o Sh. B.N. Sharma,
Asstt. Foreman,
O.F. Chanda.

4. Sh. B.S. Uppal,
S/o Sh. Meharsingh Uppal,
Asstt. Foreman, O.F.
Chanda.

...Applicants

(By Advocate Sh. S. Nagu, though none appeared)

Versus

1. Union of India through
Secretary, Ministry of
Defence Production,
Govt. of India,

New Delhi.

2. Ordnance Factory Board,
10-A, Auckland Road,
Calcutta, through its
Chairman.

3. General Manager,
Ordnance Factory,
Chanda, Distt. Chandrapur.
(Maharashtra)

...Respondents

(By Advocate Sh. Ramesh Darda)

10. OA No.84/95

1. Sh. Hansraj Tuneja,
S/o Sh. Thakur Das,
R/o 73/2, Shastri Nagar,
Kanpur.

2. Sh. Vishwa Nath Pandey,
S/o late Sh. C.K. Pandey,
R/o 48, Kailash Mandir,
Kanpur.

3. Sh. S.K. Daswal,
S/o Sh. M.R. Daswal,
Asstt. Foreman in Field
Gun Factory, Kanpur.

...Applicants

(By Advocate Sh. H.S. Parihar)

Versus

1. Union of India, through
the Secretary,
Ministry of Defence,
Department of Defence Production,
New Delhi.

2. The Chairman (Sri K. Dwarika Nath),
O.F.B.
10-A, Auckland Road,
Calcutta.

3. The General Manager,
Small Arms Factory,
Kalpi Road,
Kanpur.

4. The General Manager,
Ordnance Equipment Factory,
Kanpur.

5. The General Manager,
Field Gun Factory,
Kanpur.

...Respondents

(By Advocate Sh. R.M. Bagai)

11. OA No.83/95

1. Sh. M.P. Singh,
S/o Sh. Ram Palat Singh,
Foreman Small Arme Factory
Kanpur.

2. Sh. Bhulairam,
S/o Sh. Ram Sahai,
Foreman, Small Arms Factory,
Kanpur.

3. Sh. Dina Nath Ram,
S/o Sh. Ram Dayal,
Foreman,
Ordnance Factory,
Kanpur.

4. Sh. A.Q. Khan,
S/o Mohd. Hayat Khan,
Foreman, Small Arms Factory,
Kanpur.

5. Sh. Manohar Lal,
S/o Sh. Hazari Lal,
Foreman, Small Arms Factory,
Kanpur.

6. Sh. Prakash Chandra,
S/o Sh. Mangha Ram,
Foreman, Small Arms Factory,
Kanpur.

7. Sh. Mahabir Thakur,
S/o Sh. Keshav Thakur,
Foreman, Small Arms Factory,
Kanpur.

8. Sh. M.L. Devnani,
Foreman, Small Arms Factory,
Kanpur.

...Applicants

(By Advocate Sh. H.S. Parihar)

Versus

1. Union of India, through
the Secretary,
Ministry of Defence,
Department of Defence Production,
New Delhi.

2. The Chairman (Sri K. Dwarika Nath),
O.F.B.
10-A, Auckland Road,
Calcutta.

3. The General Manager,
Small Arms Factory,
Kalpi Road, Kanpur.

4. The General Manager,
Ordnance Equipment Factory,
Kanpur.

...Respondents

(By Advocate Sh. R.M. Bagai)

12. OA No.2671/92

Sh. R.K. Chattaraj,
S/o late Sh. H.K. Chattaraj,
Chargeman Grade-I,
Office of the Ordnance Factory
Project, Yeddumallaram,
Medak. ...Applicant

(By Advocate Sh. Y.B. Phadnis)

Versus

1. Chairman,
Ordnance Factory Board,
10-A, Auckland,
Calcutta.

2. The General Manager,
Ordnance Factory Project,
Yeddumallaram,
Medak Distt. ...Respondents

(By Advocate Mrs. Raj Kumari Chopra)

13. OA No.2151/93

1. Subra Kumar Roy,
S/o late S.C. Roy,
R/o Post Office Sham Nagar,
Village Basudevpore,
Distt.24, Paraganas (North)
West Bengal.

2. Sh. Dilip Kumar Nandi,
S/o late A.P. Nandi,
R/o Q. No. F.I.T.-19/5
(E) North Land Estate,
P.O. Ichapore,
Nawabganj,
Distt.24, Parganas North,
West Bengal.

3. Sh. Syamlal Kumar Ghosh,
S/o late N.G. Ghosh,
R/o 14-B, Nando Mitra Lane,
Tollygunge, Calcutta.

4. Sh. Sushil Chandra Dam,
S/o late Sh. Suresh Chandra Dam,
R/o Ishapore,
Manicktalla,
P.O. Ishapore,
Nawabganj, Distt.24,
Parganas (North),
West Bengal.

5. Sh. Hriday Ranjan Dass,
S/o late D.C. Dass,
R/o Q. NO.F.T.14/2 (W),
North Land Estate,
P.O. Ishapore,

Nawabganj, Distt.24,
Parganas (North),
Pin-743144.

6. Sh. Dilip Kumar Chaudhury,
S/o late Sh. P.K. Chaudhury,
R/o Matpara, Ishapore,
24 Parganas (North),
West Bengal.

7. Sh. Tushar Kanti Bhattacharya,
S/o late Sh. A. Bhattacharya,
R/o B-11/174, P.O. Kalyani,
Distt. Nadia,
West Bengal.

8. Sh. Sunil Kanti Ghosh,
S/o late Sudhir Kumar Ghosh,
R/o 42, Middle Road,'
Anandapuri, Barrackpore,
Post Nona-Chandanpukar,
Distt. 24 Parganas (N),
West Bengal.

9. Sh. Subimal Chandra Laha,
S/o Sh. B.D. Laha,
R/o 47-B, S.N. Banerjee Road,
Calcutta.

10. Sh. Bidhu Bhushan Debnath,
S/o late L.N. Debnath,
R/o 2, Bholanath Nath Street,
Baranagar,
Calcutta.

11. Sh. Bhaskardeb Banerjee,
S/o late S. Banerjee,
R/o V. & P.O. Arjunpur,
Distt. 24 Parganas,
West Bengal.

12. Sh. Jyotirmoy Sarker,
S/o Sh. J.N. Sarker,
R/o Village Sakti Pur,
B.C. Sen Road,
P.O. Agarpara,
Distt. 24, Parganas (North),
West Bengal.

13. Sh. Bimal Kumar Mukherjee,
S/o late Sh. T.C. Mukherjee,
R/o 8, Ashwani Dutta Road,
Calcutta.

14. Sh. Karunamay Chatterjee,
S/o late Sh. K.C. Chatterjee,
R/o 1o3/5, Nainan Para Lane,
Calcutta-36.

15. Sh. Anil Kumar Das,
S/o late A.C. Das,
R/o 140/26, Netaji Subhash Chandra
Bose Road, P.O. Regent Park,
Tolligunge,
Calcutta.

16. Sh. Nirmal Chandra Ghosh,
S/o late Sh. N.C. Ghosh,
R/o 59/1, Chatterjee Para Lane,
Howrah-1, Calcutta.

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17. Sh. N.C. Bose,
S/o Late Sh. H.L. Bose,
R/o Adarshapalli,
P.O. Balaram Dharmasopal,
Khardaha, Distt. 24 Parganas
(North), West Bengal.

18. Sh. Sukder Ghosh,
S/o late Sh. S.K. Ghosh,
R/o 66, Debinibas Road,
Dumdum,
Calcutta. ...Applicants

(By Advocate Sh. Y.B. Phadnis)

Versus

1. Union of India through
the Secretary, Ministry
of Defence Production
and Supplies,
South Block,
New Delhi.

2. The Chairman,
O.F.B.
10-A Auckland Road,
Calcutta.

3. The General Manager,
Rifle Factory,
Ichapore, 24 Parganas,
West Bengal.

4. The General Manager,
Ordnance Factory,
Amajhari, Nagpur.

5. The General Manager,
Gun and Shell Factory,
Cossipore,
Calcutta.

6. The General Manager,
Metal and Steel Factory,
Ischapore, Distt. 24 Paragnas,
West Bengal. ...Respondents

(By Advocate Mrs. Raj Kumar Chopra)

14. OA No.2594/94

1. Sh. Tapan Kumar Chatterjee,
Son of Sh. Bhabanich Chatterjee,
R/o Q.No.3046/III,
New Colony, G.C. Factory Este,
Jabalpur. (M.P.)

2. Sh. Arun Kumar Banerjee,
son of S.N. Banerjee,
R/o Q.No.2/6/III,
West Land Khameria,
Jabalpur.

3. Sh. D. Sinha,
Son of late P.C. Sinha,
Asstt/ Foreman, PV Section,
Grey Iron Foundry, Jabalpur.

4. Sh. U.K. Mukherjee,
son of Sh. S.N. Mukherjee,
R/o Q.No.3/5, Type III,
West Land, Khamaria,
Jabalpur. ...Applicants

(By Advocate Sh. K. Dutta)

Versus

1. Union of India through
the Chairman,
O.F.B., 10-A, Auckland Road,
Calcutta.

2. The General Manager,
Gun Carriage Factory,
Jabalpur (MP),

3. The General Manager,
Ordnance Factory, Khameria,
Jabalpur (MP).

4. The General Manager,
Grey Iron Foundry,
Jabalpur (MP).

5. Sh. A.K. Sur,
Asstt. Foreman,
Section V.V.,G.C. Factory,
Jabalpur.

6. Sh. D.Karmakar,
Asstt. Foreman,
Section A-7, Ordnance Factory,
Khameria, Jabalpur.

7. Sh. N.K. Dutta Gupta,
Asstt. Foreman,
Vehicle Factory,
Jabalpur. ...Respondents.

(Respondents 1-4 by Advocate Sh. S.C. Sharma)
(None for respondents 5&6.)
(Respondent No.7 through Sh. Shyam Moorjani).

15. OA No.63/95

1. Sh. Subhash Chandra Sarkar,
Son of Sh. S. Sarkar,
Per No.887114,
Asstt. Foreman Technical SMS.

2. Sh. Rathindra Nath,
Son of late Sati Lal Chakraborty,
Per No.887131,
A.F./C.C. SAOP.

3. Sh. Pradyot Kumar Mitra,
S/o late Sh. R.G. Mitra,
Per No.887122, A.F./M.M.

4. Sh. V.B. Saxena,
S/o Sh. S.B. Saxena,
Asstt. Foreman/Works Office.

5. Sh. Swadesh Chandra Basu,
S/o K.C. Basu,
P. No.887133
Asstt. Foreman/M.M.

6. Sh. Mrinal Kanti
S/o Sh. N.K. Sen,
P. No.887164,
Asstt. Foreman/SMS

7. Sh. G.V.R. Rao,
S/o G.Sambamuri,
P. No.887196,
Asstt. Foreman/MIG.

8. Sudesh Kumar Batra,
S/o J.K. Batra,
P. No.8871189,
Asstt. Foreman/SMS.

9. Sh. R.N. Sarkar,
S/o Sh. A.N. Sarkar,
P. NO.887190,
Asstt. Foreman/SFS.

10. Sh. A.S. Bhalerao,
S/o Sh. S.D. Bhalerao,
P. No.887192,
Asstt. Foreman/EO.

11. Sh. K.V.S. Prabhakar,
S/o K.B. Dixitulu,
P. No.887202,
Asstt. Foreman Marketing
Section.

12. Sh. S.N. Nair,
S/o Sh. A.N. Nair,
P. No.915057,
Asstt. Foreman Tool Room.

13. Sh. Amareswar Sarkar,
S/o late H.C. Sarkar,
P. NO.887228,
Asstt. Foreman/SMS.

14. Sh. Sarup Singh,
S/o Mohinder Singh,
P. No.894586,
Asstt. Foreman/MM.

(All 1-14 working at Ordnance Factory,

Anbajhari, Tehsil and Distt. Nagpur).

15. Sh. Shyam Narayanan Prasad,
S/o Shankar Mistry,
P. No.894585,
Asstt. Foreman/Unit-VI,
Ordnance Factory,
Chandrapur,
Tehsil and Distt. Chandrapur ...Applicants.

(By Advocate Sh. A.B. Oka, though none appeared)

Versus

1. Union of India through
Defence Production Secretary,
Ministry of Defence,
New Delhi.

2. O.F.B., 10-A, Auckland Road,
Calcutta through its Chairman/
Director General.

3. General Manager, Ordnance
Factory, Ambajhari,
Tehhsil and Distt. Nagpur.

4. General Manager,
Ordnance Factory,
Chanda, Distt Chandrapur
(Maharashtra).
...Respondents

(By Advocate Sh. Ramesh Darda)

16. OA No.1411/95

Abhilas Basak,
S/o Sh. Satyanarayan,
Asstt. Foreman (T),
(Mech.) employed in
the Fuze Shop of Ordnance
Factory, Ambajhari,
R/o Flat No.405,
Shree Dutt Complex,
Dattawari Nagpur.
...Applicant

(By Advocate Sh. S. Nagu)

Versus

1. Union of India through the
Secretary, Defence Production,
Ministry of Defence,
Deptt. of Ordnance Factory,
South Block, New Delhi.

2. Chairman, O.F.B.
and Director General
Ordnance Factories,
10-A, Auckland Road,
Calcutta.

3. General Manager,
Ordnance Factory,

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Ambajhari, Defence Project,
Ambajhari, Nagpur.
...Respondents.

(By Advocate Mrs. Raj Kumari Chopra)

17. OA No.76/95

Prabir Kumar Majumder,
S/o Sh. K.K. Majumder,
R/o A-9/32, A Block,
P.O. Kalyani,
Distt. Nadia.
...Applicant

(By Advocate Sh. S. Nagu)

Versus

1. Union of India through
Secretary, Ministry of
Defence, Deptt. of Defence
Production, New Delhi.

2. Chairman, D.G.O.F.
O.F.B. 10-A, Auckland Road,
Calcutta.

3. Dy. Director General,
Ordnance Factory/N.G.
10-A, Auckland Road,
Calcutta.
...Respondents.

(By Advocate Sh. S.C. Sharma)

18. OA No.2593/94

1. Sh. Chet Ram Verma,
S/o Lanka Mali,
R/o Plot No.700,
Shakti Nagar,
Gupteshwar,
Jabalpur (M.P.)

2. Sh. M.P. Gupta,
R/o Agrahari Complex,
Hanuman Ganj,
Dr. Garg ke Samne,
Katni (MP).
...Applicants

(By Advocate Sh. S. Nagu)

Versus

1. Union of India through
Secretary, Ministry of Defence,
Deptt of Defence Production and
Supply, South Block,
New Delhi.

2. Chairman and Director General,
O.F.B. 10-A, Auckland Road,
Calcutta.

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3. General Manager,
Grey Iron Foundry,
Jabalpur.

4. General Manager,
Ordnance Factory,
Katni (MP).

...Respondents

(By Advocate Sh. B. D'silva)

19. OA No. 294/90

Sh. R.H. Singh,
S/o Sh. V.B. Singh,
R/o P-67/1,
Ordnance Factory Estate,
Dehradun.

...Applicant

(By Advocate Sh. D.S. Garg)

Versus

1. Union of India through the
Secretary, Ministry of
Defence South Block,
New Delhi.

2. Chairman,
O.F.B.(A)(NG),
10-A, Auckland Road,
Calcutta.

3. General Manager,
Ordnance Factory,
Dehradun.

...Respondents

(By Advocate Mrs. Raj Kumari Chopra)

20. OA No.292/90

K.B. Mehta,
S/o Sh. C.L. Mehta,
R/o QA-68/1,
Ordnance Factory Estate,
Dehradun.

(By Advocate Sh. D.S. Garg)

Versus

1. Union of India through
Secretary, Ministry of
Defence, South Block,
New Delhi.

2. Chairman,
Ordnance Factory Board,
(A) (NG),
10-A, Auckland Road,
Calcutta.

3. General Manager,
Electronics Factory,
Dehradun.
... Respondents

(By Advocate Smt. Raj Kumari Chopra)

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21. O.A. No. 326/90

D. N. Trivedi
S/O G. N. Trivedi,
R/OC-21/9, New Type-III,
Ord. Factory Estate,
Dehradun.
... Applicant

(By Shri D. S. Gard, Advocate)

Versus

1. Union of India through
Secretary, Ministry of
Defence, South Block,
New Delhi.

2. Chairman,
Ordnance Factory Board (A) (NG),
10-A, Auckland Road,
Calcutta.

3. General Manager,
Ordnance Factory,
Dehradun.
... Respondents

(By Smt. Rajkumari Chopra, Advocate)

22. O.A. No. 2588/94

1. Rajkumar Ramkishore Pashine
S/O R. K. Pashine,
R/O Type-II, 38/4,
East Land, Khamaria,
Distt. Jabalpur.

2. Murli Manohar Srivastava
S/o S. R. Srivastava,
R/O West Land, O.F.K.,
Jabalpur (MP).

3. Uday Chand Bagchi
S/O D. P. Bagchi,
R/O Bengali Colony, Ranghi,
Jabalpur (MP).

4. Smt. Meena V. Soni
W/O B. L. Soni,
Chargeman-II,
Saket Nagar, Ranghi,
Jabalpur (MP).

5. Shyamal Kumar Mitra
S/O P. K. Mitra,
R/O Type-II, 3/1,
East Land, Khamaria,
Jabalpur (MP).

6. Bhimraj Ahuja
S/O R. L. Ahuja,
R/O 1843/1, Azad Nagar,
Ranghi, Jabalpur.

7. Ashok Kumar Parwani
S/O M. R. Parwani,
R/O Opp. Radha Krishna Mandir,
Ranghi, Jabalpur.

8. Naresh Kumar Arya
S/O L. N. Arya,
R/O 1870, Azad Nagar, Ranghi,
Jabalpur.

9. Harish Chandra Shrivastava
S/O K.B.L. Shrivastava,
R/O 13/12 H-Type, East Land,
Khamaria, Jabalpur.

10. Smt. Sheela Srivastava
W/O M. L. Srivastava,
R/O 395/1, Sheetlamai,

East Ghamapur,
Jabalpur. ... Applicants

(By Advocate Shri S. Nagu)

Versus

1. Union of India through
Secretary, Ministry of
Defence Production,
Govt. of India, New Delhi.

2. Director General,
Ordnance Factory :
Now Chairman, O.F.B.,
10-A, Auckland Road,
Calcutta.

3. General Manager,
Ordnance Factory,
Khamaria,
Distt. Jabalpur (MP). ... Respondents

(By Advocate Shri B. D'silva)

23. O.A. No. 2595/94

A. N. Mukherjee
S/O G. N. Mukherjee,
R/O 74-E, West Land,
Khamaria Estate,
Jabalpur.

... Applicant

(By Shri K. Dutta, Advocate)

Versus

1. Union of India through
through the Chairman
Ordnance Factory Board,
10-A, Auckland Road,
Calcutta.

2. General Manager,
Ordnance Factory, Khamaria,
Khamaria, Jabalpur.

3. V. Chandra, Offg. Foreman (Mech),
Codite Factory,
Aruvankadu. ... Respondents

(Respondents 1 & 2 by Shri B. D'silva, Adv.
Respondent No.3 by Shri S. Paul, Advocate)

24. O.A. No. 2669/92

Kripal Singh S/O Babu Ram Singh,
Chargeman-I, Drawing Office,
Ordnance Cable Factory,
Chandigarh. ... Applicant

(By Shri N. K. Aggarwal with Shri S. Nagu,
Advocates)

Versus

1. Union of India through
Secretary, Ministry of
Defence Production,
Govt. of India,
New Delhi.

2. Secretary, O.F.B.,
10-A, Auckland Road,
Calcutta.

3. General Manager,
Ordnance Cable Factory,
Chandigarh. ... Respondents

(By Advocate Smt. Rajkumari Chopra)

25. O.A. No. 2590/94

Samar Kanti Ghosh
S/O B. M. Ghosh,
R/O Qr. No. 3396, Sector-2,
VFJ Estate, Jabalpur. ... Applicant

(By Shri S. Paul, Advocate)

Versus

1. Union of India through
its Secretary, Ministry
of Defence, New Delhi.

2. Chairman, O.F.B.,
10-A, Auckland Road,
Calcutta.

3. General Manager,
Grey Iron Foundry,
Jabalpur.

4. H. D. Sitha,
Asstt. Foreman (Mech),
Grey Iron Foundry,
Jabalpur. ... Respondents

(By Shri B. D'silva, Advocate)

26. O.A. No. 81/1995

1. D. Pal S/O D. P. Pal,
R/O A-9/226, P.O. Kalyani,
Distt. Nadia.

2. R. P. Chandrasekharan
S/O D. R. Pillai,
R/O B/7, Cordite Factory Estate,
Aruvankadu, Nilgiris,
Tamilnadu.

3. C. K. Balachandran
S/O Karunakaran Nair,
R/O 12/1, Type-IV Quarter,
Ordnance Factory, Bhandra,
P.O. Jawahar Nagar.

4. D. C. Goyal S/O I. C. Goyal,
R/O 42017, New Type-IV,
P.O. Badmar, Orrisa.

5. M. A. Ramankutty
S/O P. Krishna Kutty Nair,
Qr. No. 333/2, Cordite Factory
Estate, Aruvankadu, Nilgiris,
Tamil Nadu.

6. Man Mohan Singh
S/O Gurbax Singh,
R/O 2035, Kothi, Sector 21/C,
Chandigarh. ... Applicants.

(By Shri B. S. Mainee, Advocate)

Versus

1. Union of India through
secretary to Govt. of India,
Ministry of Defence,
Deptt. of Defence Production
& Supplies, New Delhi.

2. Director General,
Ordnance Factories-cum-
Chairman, O.F.B,
10-A, Auckland Road,
Calcutta. ... Respondents

(By Mrs. Rajkumari Chopra, Advocate)

27. O.A. No.172/95

1. A.S.R. Krishnamoorthy
2. K.R. Thirugnanam
3. S.Kannan
4. M.Sivaraman

(All working as Chargeman II (Tech)
Heavy Vehicles Factory, Avadi,
Madras. ...Applicants

(By Advocate M/s Paul and Paul)

Versus

1. General Manager,
Heavy Vehicles Factory,
Avadi, Madras.

2. Union of India through
D.G.O.F./Chairman,
O.F.B., 10-A,
Auckland Road, Calcutta.

3. A. Babu Rao.

4. K.Panneerselvam

5. M.K. Manuel

6. A.K. Annapoorani

7. Millan Kumar Mitra

8. R. Ramamurthy

9. T.J. Vasantha

10. Dinesh Kumar Sharma

11. M. Indramma

12. T.V. Vijaykumar

13. S. Ravi

14. S. Shanmugam (Non-Technical)

(All working as Chargeman Grade I (Non-Tech)
H.V.F. Avadi, Madras.

15. K. Damodharan (Tech)

16. V. Kannan (Tech)

17. P. Manoharan (Tech)

(15-17 working as Chargeman II Tech.
H.V.F. Madras)

18. A. Thyagarajan

19. A. Poonappan Pillai

20. K. Suseelakumari

21. P.N. Ramanathan

(All working as Chargeman Grade-I non-Tech, HVF, Madras) ...Respondents

(By Advocate Mrs. Raj Kumari Chopra)

28. OA No.2602/94

Haridas Singh Kanwara,
S/o Sh. P.N. Kanwara,
Chargeman Grade-I,
Project Office,
Ordnance Factory,
Khamaria, Jabalpur. ...Applicant

(By Advocate Sh. S.C. Chaturvedi)

Versus

1. Union of India through
Secretary, Ministry of
Defence Production,
Govt. of India,
New Delhi.

2. Chairman,
O.F.B.,
6, Esplanade East
Calcutta.

3. Member, Personnel,
O.F.B.
44, Park Street,
Calcutta.

4. Secretary, O.F.B.,
6, Esplanade East,
Calcutta.

5. General Manager,
Ordnance Factory,
Khamaria,
Jabalpur. ...Respondents

(By Advocate Sh. B. D'silva)

29. OA No.854/95

Asit Kumar Hazara,
S/o Sh. N.N. Hazara,
R/o Q.No.37/7, Type-III
Ordnance Factory Estate,
Raipur, Dehradun. ...Applicant

(By Advocate Sh. K.Dutta)

Versus

1. Union of India through
Secretary, Ministry of
Defence, Central Sectt.,
G Block (O.F. Cell),

New Delhi.

2. Chairman, O.F.B.
10-A, Auckland Rd.,
Calcutta.

3. General Manager,
Electronics Factory,
Dehradun.

...Respondents

(By Advocate Sh. V.S.R. Krishna)

55

30. OA No.79/95

1. Ashutosh Bhattacharya,
S/o Sh. G.C. Bhattacharya,
R/o 2 North Chandmari Road,
Barrackpore, Distt. 24 Pgs(N),
West Bengal.

2. Santi Ranjan Roy,
S/o Sh. P.G. Roy,
R/o 3/1/1 Belia Ghata
Main Road, Calcutta.

3. Subhas Lahiri,
S/o B. Lahiri,
R/o 250, Brojonath,
Pal Street, Goalpada,
Ishapore, 24 Pgs (N),
West Bengal.

...Applicants

(By Advocate Sh. K.Dutta)

Versus

1. Union of India through
Secretary, Ministry of
Defence, New Delhi.

2. O.F.B. through its
Chairman, 10-A, Auckland Road,
Calcutta.

3. General Manager,
Rifle Factory,
Ishapore.

...Respondents

(By Advocate Sh. V.S.R. Krishna)

31. OA No.77/95

Anutosh Baishya,
S/o D.C. Baishya,
R/o P.O. & Village Patulia,
Distt. 24 Pgs (N).

...Applicant

(By Advocate Sh. K. Dutta)

Versus

1. Union of India, through
Secretary, Ministry of
Defence, New Delhi.

2. O.F.B., through Chairman,
10-A, Auckland Road,
Calcutta.

3. General Manager,
Gun & Shell Factory,
Cossipore, Calcutta.

...Respondents

(By Advocate Sh. S.C. Sharma)

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32. OA No.86/95

Surjit Lal Kapoor,
S/o Sh. K.C. Kapoor,
H. No.17-B, Albert Road,
Kanpur Cantt.

...Applicant

(By Advocate Sh. S. Nagu)

Versus

1. Union of India through
Secretary, Ministry of
Defence, New Delhi.

2. Director General,
Ordnance Factories,
10-A, Auckland Road,
Calcutta.

3. Addl. Director General,
Ordnance Factories,
Ordnance Equipment Factory
Group Headquarters, G.T. Road,
Kanpur.

4. General Manager,
Ordnance Factory,
Kanpur.

(By Advocate Mrs. Raj Kumar Chopra)

33. OA No.855/95

1. Subhash Chandra,
S/o R.C. Sharma,
R/o Q.No.C/21/2,
Ordnance Factory Estate,
Dehradun.

2. Harendra Pratap Singh,
S/o Dewan Singh,
Qtr. No.147/3,
Ordnance Factory Estate,
Dehradun.

3. Surinder Mohan Duggal,
S/o M.L. Duggal,
Qtr. No.C/37/6,
Ordnance Factory Estate,
Dehradun.

...Applicant

(By Advocate Sh. K. Dutta)

Versus

1. Union of India through
Secretary, Ministry of
Defence, Central Sectt.
G Block, O.F. Cell,
New Delhi.

2. Chairman, O.F.B.
10-A, Auckland Road,
Calcutta.

3. General Manager,
Opto Electronic Factory,
Dehradun.

...Respondents

(By Advocate Sh. V.S.R. Krishna)

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34. OA No.2592/94

U.K. Mukherjee,
S/o Sh. S.N. Mukherjee,
R/o Qtr. No.3/5, Type-III,
West Land, Khamaria East,
P.O. Khamaria, Jabalpur.

...Applicant

(By Advocate Sh. K. Dutta)

Versus

1. Union of India through
Chairman, O.F.B.
10-A, Auckland Road,
Calcutta.

2. General Manager,
Ordnance Factory,
Khamaria, Jabalpur.

...Respondents

(By Advocate Sh. B. D'silva)

35. OA No.2597/94

1. B. Bandopadhyay,
S/o Sh. K.P. Banerji,
Foreman Tech.
Section F.E. 'B'
Gun Carriage Factory,
Jabalpur.

...Applicant

(By Advocate Sh. S. Nagu)

Versus

1. Union of India through
Secretary, Defence Production
and Supplies, Ministry of
Defence, New Delhi.

2. D.G.O.F. & Chairman,
O.F.B., 10-A, Auckland Road,
Calcutta.

(58)

3. General Manager,
Gun Carriage Factory,
Jabalpur.

...Respondents

(By Advocate Sh. B. D'silva)

36. OA No.2598/94

1. U.D. Rai,
S/o Sh. P.D. Rai,
Chargeman Grade-I,
P&B Section,
Ordnance Factory,
Khamaria, Jabalpur.

2. A.L. Das,
S/o Sh. P.C. Das,
Chargeman Grade-I,
W.P. (MPO) Section,
Gun Carriage Factory,
Jabalpur.

3. B. Dasgupta,
S/o late Sh. N.Dasgupta,
Chargeman Grade-I,
P.V. Section,
Gun Carriage Factory,
Jabalpur.

4. O.P. Mishra,
S/o Sh. B.P. Mishra,
Asstt. Foreman,
WI Section, Gun Carriage
Factory, Jabalpur.

5. M.M. Joshi,
S/o Sh. M.S. Joshi,
Asstt. Foreman,
F&P Section,
Ordnance Factory,
Khamaria, Jabalpur.

6. S.S. Sharma,
Asstt. Foreman,
SA-2, Section, O.F. Khamaria,
Jabalpur.

7. M.V. Eashwaran,
S/o Sh. M.K. Vishwanathan,
Asstt. Foreman,
EO Section,
ORDNANCE FACTORY, KHAMARIA
Jabalpur.

...Applicants

(By Advocate Sh. S. Nagu)

Versus

1. Union of India through the
Secretary, Deptt of Defence
Production and Supplies,
Ministry of Defence,
New Delhi.

2. The D.G.O.F. & Chairman,
O.F.B., 10-A Auckland Road,
Calcutta.

3. The General Manager,
Gun Carriage Factory,
Jabalpur (MP).

4. The General Manager,
Ordnance Factory,
Khamaria, Jablapur.

...Respondents

(By Advocate Sh. Satish Sharma)

37. OA NO.85/95

Sh. Devendra Pal Gupta,
S/o late Sh. Krishan Pal Gupta,
R/o 304/18, Anand Mahal,
Harjinder Nagar,
Kanpur.

...Applicant

(By Advocate Sh. R.P. Oberoi)

Versus

1. Union of India through
Secretary, Ministry of Defence
Production, New Delhi.

2. Chairman/D.G.O.F.
O.F.B., 10-A Auckland Road,
Calcutta..

3. The Addl. Director General
of Ordnance Factories,
O.E.F. Group Headquarters,
G.T. Road, Kanpur.

4. The General Manager,
Ordnance Equipment Factory,
Kanpur.

(By Advocate Mrs. Raj Kumari Chopra)

38. OA No.78/95

1. Pranab Kumar Roy,
S/o R.N. Roy
R/o 3, Jadunath Mukherjee Street,
Ariadha, Calcutta.

2. Nirjan Datta,
S/o late Mukunda Ch. Datta,
R/o B-9/210, Kalyani,
P.S. & P.O. Kalyani,
Distt. Nadia,
West Bengal

3. Sanjib Ranjan Sarkar,
S/o Late Sh. S.N. Sarkar,
R/o C/o Samar Majumdar,
3 Umesh Chandra Banerjee Road,

Kayalpara, P.O. Ichapur-
Nawabganj, Distt.
24 Paraganas (North) (WB)

4. Samarandra Nath Mitra,
S/o late A.K. Mitra,
R/o E/3, Bejoypur,
P.O. Sodepur,
Distt. 24 Parganas (North)
West Bengal.

...Applicants

(By Advocate Sh. S.K. Ghosh, though none appeared)

Versus

1. Union of India through
the Secretary, Ministry
of Defence, New Delhi.

2. O.F.B. through the
Chairman, 10-A, Auckland
Road, Calcutta.

3. Director General of Ordnance
Factory, 10-A Auckland Road,
Calcutta.

4. Director General,
Quality Assurance,
H Block, New Delhi.

5. General Manager,
Rifle Factory,
Ichapur, Distt.24 Parganas(N),
West Bengal.

6. Sh. M.K. Sinha,
Asstt. Foreman (Mech),
Riffle Factory, Ichapur,
Distt. 24 Prgs. (N) W.B.

...Respondents

(By Advocate Sh. V.S.R. Krishna)

39. OA No. 398/91

1. Asit Kumar Sreemany,
S/o B.C. Sreemany,
R/o 2, Chunni Lal Banerji Road,
Ariadaha, Calcutta.

2. Parimal Bhattacharya,
S/o Sh. Kashiwar Bhattacharya,
Chargeman Grade-I, Sondalpara,
Sondal Tank Road,
(West) P.O. Khapore,
Distt. 24 Pgns. (N),
West Bengal.

3. Promatha Nath Chakravarty,
S/o J.C. Chakravarty,
R/o Khasmallik,
P/o Dakhin,
Gobinpur, Distt. 23 Pgns (South),
West Bengal.

4. Kashi Nath Dey,
S/o N. Dey,
Chargeman Grade-I,
290, Ghoshpara Road,
Ichapore, Distt. 24 Pgns (N)
West Bengal.

(61)

5. Uma Shankar Prasad Kairy,
S/o J.N. Kairy,
R/o Village Kumarpara,
P.O. Ichapore,
Distt. 24 Pgns (N),
West Bengal.

6. Nirad Bechari Das,
S/o H.P. Das,
R/o Ambicapuri, P.O.
Nalagarh via Sodipore,
Distt. 24 Pgns.

7. Debabrata Sinha,
S/o D. Sinha,
R/o Sangram Garh,
P.O. Bengal Enamal,
Distt. 24 Pgns (N)
West Bengal.

8. Shyama Pada Biswas,
S/o J.N. Biswas,
R/o Strand Road,
P.O. Ichapore,
Nawabganj, Distt 24 Pgns.

9. Rabindra Nath Das,
S/o H. Das,
R/o 26, A.P. Ghosh Road,
P.O. Chatra, Serampore,
Distt. Hooghly, W.B.

10. Nisith Ranjan Goswami,
S/o Sh. N.R. Goswami,
R/o 14, Lelian Nagar
P.O. Garulia, Distt. 24 Pgns (N)
W.B.

11. Jibon Krishna Chakravorty,
S/o S.C. Chakravorty,
R/o 13, Netaji Palli,
Gopalpara,
P.O. Ichapore, Nawabganj,
Distt. 24 Pgns, W.B.

12. P.M. Majumdar,
S/o M.T. Majumdar,
R/o 25/C, Type-IV,
Ordnance Factory Estate,
Varanagaon, Distt. Jalgaon,
Maharashtra.

13. S.D. Khedkar,
S/o D.G. Khedkar,
R/o Plot No.18, Ravi Kiran
Society, State Bank Colony,
Single Storey Road,
Baldeo Bag, Jabalpur (MP).

14. D.N. Sarkar,
S/o D. Sarkar,
R/o Qtr. No.3333, Sector-II,
V.F.J. Estate, Jabalpur (MP).

15. A.K. Ghosh,
S/o A.C. Ghosh,
R/o Qtr. No.3057, Sector-I,
V.F.J. Estate, Jabalpur.

16. B.L. Vishwakarma,
R/o Vehicles Factory Estate,
Jabalpur.

17. A.P. Mitra,
S/o T.N. Mitra
R/o Qtr. No.3279, Sector-II,
V.F.J. Estate, Jabalpur,
M.P.

18. P.G. Danial,
S/o Verghese,
R/o 154/4, Subhash Nagar,
P.O. Khamaria,
Jabalpur (MP).

19. R.K. Sharma,
S/o Devatadin,
R/o 114/613 (Plot No.143),
Vihayar Pur, Kanpur, UP.

20. S.P. Saxena,
S/o S.N.Lal,
R/o 157/5,6,Balupurwa Colony,
Kanpur, UP.

21. Y.E. Hinge,
S/o E. Hinge,
R/o Qtr. No.H-94/76,
O.F. Estate, Ambarnath,
Distt. Thana,
Maharashtra.

...Applicants

(By Advocate Sh. Y.B. Phadnis)

Versus

1. Union of India through the
Secretary, Ministry of Defence
Production and Supplies,
New Delhi.

2. The Chairman O.F.B.
10-A, Auckland Road,
Calcutta.

3. The General Manager,
Rifle Factory,
Ichapore, 24 Pgns (WB).

4. The General Manager,
Metal & Steel Factory,
Ichapore 24 Pgns,
West Bengal.

5. General Manager,
Ordnance Factory,
Varangaon, Distt. Jalgaon,
Maharashtra.

6. General Manager,
Vehicles Factory
Jabalpur.

7. The General Manager,
Ordnance Factory,
Ambarnath, Distt. Thane,
Maharashtra.

8. The General Manager,
Ordnance Factory,
Kalpi Road, Kanpur.

9. The General Manager,
Small Arms Factory,
Kalpi Road,
Kanpur.

10. Arvind Shukla,
Asstt. Foreman,
Ordnance Factory, Kanpur,
U.P.

11. K.N. Dwivedi,
Asstt. Foreman,
Ordnance Factory,
Chanda, Chandrapur (MS).

12. T.O. Devassy,
Asstt. Foreman,
Heavy Vehicles Factory,
Jabalpur (MP). ...Respondents

(By Advocate Mrs. Raj Kumari Chopra)

40. OA No.2591/94

1. Mannu Lal,
Foreman Technical,
Gun Carriage Factory,
Jabalpur.

2. R. Palaniappan,
Foreman Technical,
Gun Carriage Factory,
Jabalpur.

3. K.S. Pawaria,
Foreman Technical,
Gun Carriage Factory,
Jabalpur.

4. K.N. Singh,
Asstt. Foreman,
Gun Carriage Factory,
Jabalpur.

5. Govind Sahu,
Asstt. Foreman (Tech),
Vehicle Factory,

Jabalpur, M.P.

6. R.K. Gupta,
Asstt. Foreman (Tech),
Ordnance Factory,
Katni, M.P.

7. B.D. Sabnani,
Asstt. Foreman (Tech),
Ordnance Factory,
Khamaria, Jabalpur, M.P.

8. B.N. Arora,
Asstt. Foreman (Tech),
Gun Carriage Factory,
Jabalpur.

9. B.K. Jaiswal,
Asstt. Foreman (Tech),
Vehicle Factory,
Jabalpur (MP).

10. C.M. Joshi,
Asstt. Foreman (Tech),
Vehicle Factory,
Jabalpur (MP).

11. S.P. Singh,
Asstt. Foreman (Tech),
Vehicle Factory,
Jabalpur (MP).

12. Ram Sewak Singh,
Asstt. Foreman (Tech),
Gun Carriage Factory,
Jabalpur (MP).

13. M.L. Dua,
Asstt. Foreman (Tech),
Vehicle Factory,
Jabalpur (MP).

14. S.K. Bisaria,
Asstt. Foreman (Tech),
Vehicle Factory,
Jabalpur (MP).

15. B.D. Mahajan,
Asstt. Foreman (Tech),
Vehicle Factory,
Jabalpur (MP).

...Applicants

(By Advocate Sh. S. Nagu) .

Versus

1. Union of India through
The Secretary,
Deptt. of Defence Production
and Supplies,
Ministry of Defence,
New Delhi.

2. D.G.O.F & Chairman,
Ordnance Factory Board,
10-A, Auckland Road,

Calcutta. ...Respondents

(By Advocate Sh. B. D'silva)

41. OA No.2600/94

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1. Somnath Basak,
S/o late Sh. M.N. Basak,
Asstt. Foreman (Mech)
Ordnance Factory,
Khamaria, Jabalpur(MP)

2. Vijay Kumar,
S/o Sh. R.C. Dubey,
Chargeman Grade I (Mech)
Ordnance Factory,
Khamaria, Jabalpur (MP)

3. O.P. Gupta,
S/o late Shiv Shankar Prasad,
Chargeman Grade-I (Mech),
Ordnance Factory,
Khamaria,
Jabalpur (MP). ...Applicants

(By Advocate Sh. S. Nagu)

Versus

1. Union of India through
the Secretary, Ministry of
Defence (Deptt. of Defence
Production and Supplies),
New Delhi.

2. The Chairman and D.G.O.F.
O.F.B. 10-A, Auckland Road,
Calcutta.

3. The General Manager,
Ordnance Factory,
Khamaria, Jabalpur (MP). ...Respondents

(By Advocate Sh. Satish Sharma)

42. OA No.2599/94

1. G. Sukesan,
S/o late E. Govindan,
Asstt. Foreman MCF Section,
Vehicle Factory,
Jabalpur.

2. M.C. Guchhait,
S/o late Sh. R.S. Guchhait,
Asstt. Foreman,
S.E. Coord. Sec, Vehicle Factory,
Jabalpur. ...Applicants

(By Advocate Sh. S. Nagu)

Versus

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1. Union of India through the Secretary, Ministry of Defence, Deptt. of Defence Production, South Block, New Delhi.

2. Director General, O.F.B., 10-A, Auckland Road, Calcutta.

3. General Manager, Vehicle Factory, Jabalpur. ...Respondents

(By Advocate Sh. Satish Sharma)

43. OA No.2670/92

1. Subhash Chandra Sabharwal, S/o late Sh. Shiv Charan Lal, R/o 10/21, Block-1, Govind Nagar, Kanpur.

2. Vinoy Kumar Palit, S/o late Sh. S.K. Palit, R/o FT/155 Armapore Estate, Kanpur.

3. Rama Nath Awasthi, S/o late G.N. Awasthi, R/o M-53, Hemant Vihar-II, Kanpur.

4. Karori Mal Arora, S/o Sri Lekhraj, R/o LIG 122, Ratan Lal Nagar, Kanpur.

5. Ashok Gurtu, S/o late H.L. Gurtu, R/o 128/112, G-Block, Kidwai Nagar, Kanpur. ...Applicants

(By Advocate Sh. N.K. Aggarwal with Sh. S. Nagu)

Versus

1. Union of India through the Secretry, Ministry of Defence, Deptt. of Defence Production, New Delhi.

2. Chairman, O.F.B./Director General of Ordnance Factory, 10-A Auckland Road, Calcutta. ...Respondents

(By Advocate Mrs. Raj Kumari Chopra)

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ORDER

(Hon'ble Mr. N.V. Krishnan, Acting Chairman)

Their Lordships of the Supreme Court concluded their judgement in K.K.M. Nair and Others vs. Union of India and Others (1993 (2) SCALE 102) as follows:-

> "17. Before parting with this judgement we may mention that because of contradictory judgement of the various courts and Central Administrative Tribunal in the country the seniority position of the members of the service all over the country, numbering about twenty thousand could not be crystallised over a period of two decades. We have been informed by the Union of India that the Central Administrative Tribunals all over the country have, by and large, taken uniform view following the judgement of this Court in Paluru's case and the seniority lists have been issued in conformity therewith. It has been long-drawn-out battle in the court-corridors causing lot of expense and suffering to the members of the service. We hope that this judgement has finally drawn the curtains over the controversy."

That hope had not been realized primarily because certain other issues regarding inter-se-seniority had not been taken up in appeal before the Apex Court and there are uncertainties about those issues. That is clear from the order of reference of the Jabalpur Bench of the Tribunal in the above five OAs, pursuant to which these cases have been referred to this Larger Bench by the Hon'ble Chairman for disposal.

2. After a perusal of the order of reference and the pleadings in these OAs and after hearing the arguments of the parties, we find that what is under issue is the preparation of the inter-se-seniority of Chargeman-II in the Ordnance Factories under the

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Ministry of Defence as on 1.1.1973. That cadre comprises Chargeman-II proper and others declared as Chargeman-II by orders of Government, issued on their own or in pursuance of the orders of the High Court or of this Tribunal, as is evident from para-18 of the referral order. In that para the Bench has indicated how, in its view, the inter-se-seniority of various classes of persons appointed as Chargeman-II should be fixed, keeping in view the judgements and orders of the High Courts and the various Benches of the Tribunal, as also the decisions rendered by the Supreme Court. The order or reference that follows, reads as under:

> "20. We are of the opinion that since the question involves seniority of large number of employees posted in various Ordnance Factories in the country and the judgements of various Benches of the Tribunal have to be taken into account for formulating directions in this regard, the matter be decided by a larger Bench to put an end to the controversy.
>
> 21. We, therefore, direct that the order of reference be laid before Hon'ble Chairman to constitute a larger Bench at an early date."

3. It is clear that the issue is quite involved as there are many categories of Chargeman-II. A complete reproduction of the referral order should have sufficed to provide the background, but, we have felt it necessary to restate the issues more comprehensively, without sacrificing necessary details merely for the sake of brevity. A number of judgments and orders have to be referred. Most of them have been kept in a separate compilation. Unless otherwise indicated, the page number given in this order refers to the page number in this compilation.

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4. Set up of the Department -

For our purpose, it is sufficient to note that in the Ordnance Factories the post of Supervisor 'B' is the feeder category for promotion to the post of Supervisor 'A'. Supervisor 'A', along with Senior Draftsman, Senior Rate Fixer, Senior Planner and Senior Estimator are feeder posts to the next higher grade of Chargeman Grade-II. The further promotions are to the posts of Chargeman-I, Assistant Foreman and Foreman.

5. Accelerated promotion to the post of Supervisor 'A' and Chargeman-II.

On 6.11.1992, the following order was issued by the Director General of Ordnance Factories:-

> "Subject- NON-INDUSTRIAL ESTABLISHMENT PROMOTION
>
> D.G.O.F. has decided that Diploma holders serving as Supervisor 'A' Tech/Supervisor 'B'/(Tech) and in equivalent grades should be treated as follows
>
> (i) All those Diploma holders who have been appointed as Supervisor 'B' (Tech) (and in equivalent grades) should, on completion of one year's satisfactory service in ordnance factories, be promoted to Supervisor 'A' (Tech) and in equivalent grades.
>
> (ii) All those diploma holders who work satisfactorily as Supervisor 'A' (Tech) or in equivalent grades for 2 years in Ordnance Factory should be promoted to Chargeman. Kindly acknowledge the receipt."
>
> (reproduced in S.C. judgement in Paluru's case - AIR 1990 SC 166)

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It appears that this was done to meet the exigencies which arose in 1962 as a result of the war between India and China. By way of clarification, another letter dated 11.3.1963 was issued which reads as follows:-

> "Sub. Non-industrial establishment - treatment of of Diploma Holders in matters of appointment/promotion
>
> Ref: This office No.673/A/NI/dated 6.11.62.
>
> So long the position was that Diploma Holders in Engineering were being recruited as Supervisor 'B' grade and were being promoted to Supervisor 'A' grade after satisfactory completion of one year's service as Supervisor 'B' grade.
>
> It has now been decided by the Director General, Ordnance Factories that in future Diploma Holders in Engineering should be straightaway appointed as Suoervisor 'A' grade.
>
> 2. In view of the decision stated above all those Diploma Holders who are not yet promoted to Supervisor 'A' Grade because they have not yet completed one year service as Supervisor 'B' grade may be promoted to Supervisor 'A' grade with effect from 6.3.1963 provided they work as Supervisor 'B' grade is satisfactory so that they do not stand at any disadvantage as compared with those Diploma holders who are yet to be recruited as Supervisor 'A' grade in view of the Director General, Ordnance Factories decisions as stated in Para 1 above."
>
> (Reproduced in Full Bench Judgement of Bombay Bench dated 23.8.1990, page 154).

As seen from the judgement of the Madhya Pradesh High Court in MP No.174/1981 Dilip Singh Chauhan and Others vs. Union of India & Others (page 30), by circular dated 29.6.1965 the Director General, Ordnance Factory directed all the General Managers of the Ordnance Factory to submit the list of all Supervisors Grade-A who have completed two years' satisfactory service for being promoted as Chargeman Grade-II. But, subsequently by order dated

28.12.1965, the Ministry of Defence directed that minimum period of service of three years in the lower grade should be fixed for promotion to the next higher grade. So, some of the incumbents got the benefit of being promoted as Chargeman Grade-II on completing two years' service while the others got promoted after three years service.

6. Consequent upon the Government of India, Ministry of Defence letter dated 28.12.1965, referred to above, the Director General issued the following circular on 20.1.1966:

> "Sub: N.G. Establishment - Treatment of Diploma holders as ex-apprentices service as Supr A Gr. in equivalent grades in the matter of promotion.
>
> Ref: This office confidential No.673/A/NG dated 6.11.1962 and 4416/A/NG dt. 29.6.65.
>
> The question of promotion of Diploma holders in Mech/Elect Engineering and Ex-apprentices serving as Supr 'A' Gr. or in equivalent grades has received further consideration of the D.G., O.F. who has decided that in future promotions of all such individuals will be effected in accordance with the normal rules i.e. on the basis of their listing by the relevant D.P.C. and not merely on completion of 2 years satisfactory continuous service as Supr. A Gr. or equivalent grades.:
>
> (Reproduced in SC judgement in Paluru's case - ibid)

A number of Diploma-holders who were working in the grade of Supervisor 'A' acquired promotion to the grade of Chargeman-II before the issue of the above circular, based on the earlier circular dated 6.11.1962.

7. <u>Claim for accelerated promotion and the first decision of the Supreme Court-</u>

75 Supervisors 'A' moved the Allahabad High Court in 1972 stating that, based on the circular dated 6.11.1962, a large number of Supervisors Grade 'A' had been promoted to the post of Chargeman II on completion of two years satisfactory work, but they, who have also already completed such service, have been denied the same benefit. A learned Single Judge of the Allahabad High Court dismissed their writ petition on technical grounds. Later, that petition was dismissed on merits by a Division Bench, holding that the circular dated 6.11.1962 was contrary to the Indian Ordnance Factories (Recruitment and Conditions of Service of Class III Personnel) Rules 1956 - Rules for short. An appeal was preferred before the Supreme Court (Appeal No.441/1981) Virender Kumar and Ors. vs. Union of India and Ors. - Virender Kumar's case, for short, which was allowed on 2.2.1981 by the Supreme Court by a short order which reads as follows (AIR 1981 SC 1775):

> "Heard counsel. Special leave granted. Our attention has been invited by learned counsel for both the sides to the relevant rules which govern promotion to the post of Chargeman Grade II. It appears that a large number of persons have been promoted to those posts though they have completed only two years of service. The Government now appears to insist that, in so far as the appellants are concerned, they cannot be considered for promotion unless they complete three years of service. We see no justification for any such differential treatment being given to the appellants. If a large number of other persons similarly situated have been promoted as Chargeman Grade II after completing two years service, there is no reason why the appellants should also not be similarly promoted after completing the same period of service. We are not suggesting that the appellants are entitled to be promoted to the aforesaid posts even if they are found unfit to be

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promoted.

We, therefore, direct that the concerned authorities will consider the cases of the appellants for promotion as Chargeman grade II and promote them to the said posts unless they are found to be unfit. If the appellants are promoted, they will naturally have to be promoted with effect from the date on which they ought to have been promoted.

This order will dispose of the Appeal.

There will be no order as to costs."

On 5.3.1982 an order was passed by the Supreme Court in contempt proceedings initiated by the above appellants, that the above order dated 2.2.1981 did not need any further clarification and had to be complied with (Annexure 4 in Referred case 2-OA-2591/94 - Mannu Lal and 14 others Vs. Union of India & Anr.). Orders were issued on 12.10.1982 (Annexure 5 ibid) granting promotion to the 75 appellants from earlier dates as Chargeman-II.

8. Decision of the M.P. High Court in Dilip Singh Chouhan's Case & K.K.M. Nair's Case:

Following this decision of the Supreme Court, an order was passed on 4.4.1983 by the Madhya Pradesh High Court in MP No.174 of 1981 - Dilip Singh Chouhan & others vs. Union of India & Others (page 30) by which 6 petitions were disposed of. In 3 petitions, the petitioners were diploma holders appointed as Supervisor B. They wanted two reliefs - (i) they should be treated as Supervisor A from the date of first appointment and (ii) that they should be treated as Chargeman II with effect from the date of completing 2 years service as Supervisor A. In two other petitions, the petitioners were Supervisor A and

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prayed for the second relief only. The sixth petition M.P.No.9/1982 (K.K.M. Nair and others Vs. Union of India & Ors.) was by Science graduates who wanted both the reliefs. On 04.04.1983, the Court held, inter alia, that all petitioners are to be treated as Chargeman II on completion of two years satisfactory service as Supervisor A, if they had been appointed before 28.12.1965 - because from that date the criterion of three years minimum service was introduced - and notional seniority has to be fixed as Chargeman II and higher grades. In regard to financial benefits it was held that they were not entitled to any retrospective benefit. They would, however, be entitled to refixation of their present salary on the basis of "notional seniority" granted to them in different grades so that their present salary is not less than that of those who are immediately below them. Reliance was placed for this direction on the decision of the Supreme Court in S. Krishnamurthy Vs. General Manager, S. Railway (AIR 1977 SC 1868). Repelling the contention of the respondents that the petitioners cannot be permitted to unsettle settled things by filing petitions after a long delay, the Court held "But in the present case the persons already promoted are not at all being disturbed. What is being done is refixation of notional seniority of the petitioners." SLP No. 5987-92 of 1986 filed against this judgement of the Madhya Pradesh High Court was dismissed by the Supreme Court on 28.07.1986 (This is clear from the subsequent judgement in Paluru's case (supra)). Thereupon, a seniority list dated 20/25.02.1987 (Page 15) giving antedated seniority to the 124 petitioners in the grades of

Chargeman II, Chargeman I, Asstt. Foremen and Foremen was issued by Government pursuant to the judgement of the Madhya Pradesh High Court. (emphasis given)

9. Jabalpur Bench's decision in Ananthamurthy's case.

B.H. Ananthamurthy and Ors. and Ravinder Nath Gupta and Ors. filed petitions in the Madhya Pradesh High Court for similar reliefs. They were Science Graduates i.e., their case was similar to that of M.P. No.9/1982 - K.K.M. Nair and ors. Vs U.O.I. & Ors. decided by the Madhya Pradesh High Court as mentioned in para 8 above. They too claimed that they should be treated as Supervisor A from the date of their appointment and be promoted as Chargeman II after completing two years as Supervisor A. After the Administrative Tribunals Act, 1985 came into force, those petitions stood transferred to the Jabalpur Bench of the Tribunal where they were registered as TA-322/86 and TA 104/86 and disposed of on 30.06.1987 (page 72). The Tribunal found that these applications were similar to the case of K.K.M. Nair decided by the Madhya Pradesh High Court and to Virender Kumar's case decided by the Supreme Court. Following those judgements it was directed as follows :-

> "In the net result, in both these petitions TA 322 of 1986 (Ananthamurthy and others Vs Union of India) and also TA-104 of 1986 (Ravinder Nath Gupta and other Vs Union of India), we direct that petitioners who are Science Graduates and such of the petitioners who are diploma holders shall be treated as Supervisor "A" from the date of their initial appointment and their notional seniority revised. They shall be entitled to be considered for promotion to the post of Chargeman Grade-II on completion of two

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years of satisfactory service as Supervisor "A" retrospectively. If found fit and promoted by the DPC-III (C), their notional seniority shall be refixed for the post of Chargeman-II, Chargeman Grade-I or that of Assistant Foreman as the case may be. Their present salary shall also be so fixed so that it is not lower than the salary of those who are immediately below them in seniority. They shall not be entitled to past arrears of pay." (emphasis given)

The SLP filed by the Union of India against this order of the Jabalpur Bench was dismissed on 16.11.1988 (page 80). Based on these decisions, the seniority list was amended assigning higher position to the applicants in the TAs by factory order No.143 issued on 10th July, 1989, (page 67) in the grade of Supervisor A. That order, further stated as follows:

"As the above individuals have been treated as Supervisor 'A' (Tech.) from the date of their appointment as Supr. 'B' (T) and they have been assigned seniority from that date, they are entitled to the following further reliefs in terms of the Hon'ble Tribunal's order dated 30th June, 1987.

'(a) They shall be entitled to be considered for promotion to the post of Chargeman Gr.II (T) on completion of 2 years satisfactory service as Supervisor 'A' retrospectively. If found fit and promoted by the DPC-III (C), their notional seniority shall be refixed for the post of Chargeman Gr.II, Chargeman Gr.I or that of Asstt. Foreman as the case may be;

(b) Their present salary shall also be so fixed that it is not lower than the salary of those who are immediately below them in seniority and;

(c) They shall not be entitled to past arrears of pay, [but they shall be considered for further promotion on the basis of this revised notional seniority.]'

(Authy: O.F.Board's Immediate Letter No.344/10(2)ANG(A)/III dated 4.1.89)."

It has only to be added that the direction in square brackets was deleted in review by the order dated 7.2.91 in MA-24/1989 (page 125). 10. Supreme Court's second judgement in Paluru Ramakrishnaiah's case:

When Virender Kumar & others were given only earlier promotions as Chargeman II by the order dated 12.10.1982 (para 7 supra) but were not given any benefit of seniority or pay, they filed a contempt petition in the Supreme Court in CA-441/81. Persons similarly situated as Virender Kumar and others also filed 6 writ petitions before the Supreme Court, the leading petition being W.P.(Civil) 530 of 1983 - Paluru Ramkrishnaiah & ors. Vs U.O.I. & Anr.). These 6 writ petitions and the contempt petition filed by Virender Kumar and others were disposed of by thejudgement dated 28.03.1989 of the Supreme Court (AIR 1990 SC 166). The earlier decision in Virender Kumar's case (AIR 1981 SC 1775) was reconsidered in great detail. It was noted that promotion to the grade of Chargeman-II was governed by Rule 7 of the Statutory Rules framed under Article 309. That rule did not provide for automatic promotion of Supervisor Grade 'A' on completion of 2 years service. On the contrary, it required that they would have to be considered for promotion by a DPC. The letter of the D.G.O.F. of 20th January, 1966 merely clarified this postion. The Court found that persons who have completed two years as Supervisor Grade 'A' before the revised memo was issued on 20.1.1966 were in a separate class. The Court stated as follows in this context:

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> "The fact that some Supervisors 'A' had been promoted before the coming into force of the order dated 28th December, 1965 and the circular dated 20th January, 1966 could not, therefore, constitute the basis for argument that those Supervisors 'A' whose cases came up for consideration for promotion thereafter and who were promoted in due course in accordance with the rules were discriminated against. They apparently did not fall in the same category."

Therefore, the Court dismissed the writ petitions which were filed by persons who completed two years of service as Supervisor Grade 'A' after 20th January, 1966 for the same benefit as was given to Virender Kumar & Others.

11. However, noting that the decision earlier rendered in Civil Appeal No.441/1981 (Virender Kumar's case) (AIR 1981 SC 1775) has been reversed, it considered what would happen to the beneficiaries of that order, particularly when they had also preferred a civil miscellaneous petition alleging contempt, which was also disposed of by the same order. In this regard, the Court held, inter alia, as follows:

> "It is now not disputed that the appellants of this appeal have in pursuance of the order of this Court dated 2nd February, 1981 been given a back date promotion to the post of Chargeman II synchronising with the dates of completion of their two years of service as Supervisor "A". The grievance of the petitioners, however, is that this promotion tantamounts to implementation of the order of this Court dated 2nd February, 1981 only on paper inasmuch as they have not been granted the difference of back wages and promotion to higher posts on the basis their back date promotion as Chargeman II." (emphasis given)

It was held by the Court that the appellants in C.A. 441/1981 (Virender Kumar & Ors.) could get the same relief which the Madhya Pradesh High Court gave to the petitioners who filed the 6 petitions

before that Court (Dilip Singh Chouhan & K.K.M. Nair's case - para 8 supra). The Court then held as follows :

> "In this view of the matter to put them at par it would be appropriate that the appellants in Civil Appeal No. 411 of 1981 may also be granted the same relief which was granted to the petitioners in the writ petitions before the Madhya Pradesh High Court. As regards back wages the Madhya Pradesh High Court held :
>
> > 'It is settled service rule that there has to be no pay for no work i.e. a person will not be entitled to any pay and allowance during the period for which he did not perform the duties of a higher post although after due consideration he was given a proper place in the gradation list having deemed to be promoted to the higher post with effect from the date his junior was promoted. So the petitioners are not entitled to claim any financial benefit retrospectively. At the most they would be entitled to refixation of their present salary on the basis of the notional seniority granted to them in different grades so that their present salary is not less then those who are immediately below them.' (emphasis supplied).
>
> In so far as Supervisors "A" who claimed promotion as Chargeman II the following direction was accordingly given by the Madhya Pradesh High Court in its judgement dated 4th April, 1983 aforesaid :-
>
> > 'All these petitioners are also entitled to be treated as Chargeman Grade II on completion of two years satisfactory service as Supervisor Grade-A. Consequently, notional seniority of these persons have to be refixed in Supervisor Grade A, Chargeman Grade-II, Grade-I and Assistant Foreman in Cases of those who are holding that post... The petitioners are also entitled to get their present salary refixed after giving them notional seniority so that the same is not lower than those who are immediately below them.' (emphasis given)

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In our opinion, therefore, the appellants, in Civil Appeal No. 441 of 1981 deserve to be granted the same limited relief. We are further of the opinion that it is not a fit case for initiating any proceedings for contempt against the respondents.

In the result, the writ petitions fail and are dismissed. The Civil Miscellaneous Petitions in Civil Appeal No. 441 of 1981 are disposed of by issuing a direction to the respondents to give the appellants in the said Civil Appeal the same benefits as were given by the Madhya Pradesh High Court to such of the petitioners before that Court who were Supervisors "A" and were granted promotion as Chargeman II by its judgement dated 4th April, 1983. In the circumstances of the case, however, there shall be no order as to costs."

12. Sequel to decision in Paluru's case

Consequently, by an order dated 27.7.89, the seniority of Virender Kumar and others was refixed and antedated in the cadre of Chargeman II and, therefore, their seniority in the higher gades (Chargeman I, Asstt. Foreman and Foreman), if they were holding such posts was also refixed. (Annexure A-8 - Mannu Lal and 14 others Vs. U.O.I. & Anr. - OA-2591/1994). That order dated 27.7.1989 concluded as follows:

"1.3 The above ante-dating-re-fixation of seniority of the above individuals is subject to further amendment and consequential refixation thereof, as and when necessary, due to changed circumstances under any judgement/order passed by the Court/Tribunal.

1.4 Their salary shall be refixed consequent on re-fixation of seniority as above. The re-fixation of present pay shall not entitle them to arrears of pay and allowances for the past periods. They shall, however, be entitled to the benefits of salary as re-fixed w.e.f. the date of the judgement viz. 28.3.89."

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13. Based on this revised seniority list, some applicants in that OA were promoted on 31.7.1989 (Annexure A-9 ibid) as Foremen. A further order of promotion was issued on 29.9.1989 (Annexure 9 A ibid), as Asstt. Foreman in respect of some other applicants in that OA.

14. Grievance of applicants in Mannu Lal's case (First Category of Chargemen-II seeking accelerated promotion).

With this background, we can now consider the grievance of the applicants in OA-275/93 of the Jabalpur Bench, Mannu Lal and 14 others vs. Union of India, one of the OAs referred to this Larger Bench - since numbered as OA No.2591/94 in the Principal Bench to which it stands transferred. They have two grievances. Firstly, the benefit of ante-dated seniority granted as Chargeman II by the order dated 27.7.89 (para 12 supra) was taken away in respect of some applicants by an order dated 17.6.1991 of the Ministry of Defence (Annexure A-12 ibid = page 112), issued as a consequence of an order of the Jabalpur Bench of the Tribunal in OA-217/87 (Shishir Kumar Chattopadyaya & Others vs. U.O.I. & Others) (page 116).

Secondly, the promotions granted by the orders dated 31.7.89 and 29.9.89 (para 13 refers) were cancelled by the Ordnance Factory Board on 24.1.92 (Annexure A_14 ibid) in pursuance of an order dated

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30.12.1991 (page 112) of the Calcutta Bench of the Tribunal in OA-99/91 - Sudhir Kumar Mukerjee & Ors. vs. U.O.I. & Ors.

A Contempt Petition filed by Mannu Lal & Others in the Supreme Court was disposed of by the order dated 27.7.92 (Annexure A-16 ibid) leaving the applicants free to approach the Tribunal and challenge those orders. Hence they filed OA-275/93 before the Jabalpur Bench, which is referred to a Larger Bench and also stands transferred as OA-2591/94.

15. Review of the judgement in Anantamurthy's case (MA 24/89 - S.B. Chakrawarthy's case).

We should, therefore, now deal with OA-217/87 of the Jabalpur Bench and OA-99/91 of the Calcutta Bench, referred to above. Before that is done reference has to be made to another order passed by the Jabalpur Bench in a MA seeking a review of their decision in Ananthamurthy's case (para 9 refers) as that order disposing of the review application is the basis for the order in OA-217/87 of the Jabalpur Bench. A review application (MA 24/89) was filed by S.B. Chakraborty and others seeking a review of the judgement delivered by the Jabalpur Bench in TA-322/1986 (B.H. Anantamoorthy and Ors. vs.U.O.I. and T.A. 104/86 (Ravinder Nath Gupta and Ors. vs. U.O.I.) referred to in para 9. The review applicants were not parties to the above decisions. These applicants contended that they were senior to the respondents 4 to 53 (i.e. petitioners in the two TAs) as Chargeman II and those respondents could not be

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placed above them in the seniority list of Chargeman II, on the basis of the Tribunal's direction in 30.6.1987 in the two TAs, because the applicants were not made parties to those TAs. The applicants, therefore, sought a direction that their seniority should not be disturbed in pursuance of the Tribunal's orders.

16. The Jabalpur Bench allowed this review application with some directions on 7.2.91 (page 125). It found as a fact that the applicants had been appointed as Chargeman II from dates earlier than those on which the applicants in the two TAs were actually promoted to that post. It also noticed that a similar prayer had been made by similarly situated persons in OA-580/1989 before the Calcutta Bench of the Tribunal (Achinta Majumdar & Ors. Vs. U.O.I. & Ors.) which was decided in favour of the applicants on 25.10.90 (page 143) after referring to these decisions of the Jabalpur Bench.

17. Disposing of the review application, the Jabalpur Bench interpreted their order in B.H. Ananthamurthy's case (para 9 supra) particularly the connotation of notional seniority referred to therein and held, inter alia, as follows:-

> "All that the order contemplated was that they should be treated as Supervisor A from the date of their initial appointment, so that their pay could be refixed by granting them notional increment for the next higher post provided they are cleared for such promotion on merits. There was no intention of the Tribunal that persons who had been actually holding the post of Chargemen Grade-II prior to the applicants in B.H.

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Anthamurthy's case (supra) would be placed below the persons who are now granted notional seniority....."

"There was no intention of the Tribunal that at every level the applicants in the case of B.H. Ananthamurty would be ranked higher than the persons who had already come to occupy the respective posts in the grades of Chargemen Grade-I, Assistant Foremen etc. earlier than the applicants on a regular basis....."

"The refixation of notional seniority would thus only result in the point fixation of pay of the applicants in those case, when they were actually due for promotion, and promoted otherwise on merits and not for further accelerated promotion. We, therefore, hold that the Calcutta Bench has correctly interpreted our judgement an extract of which has already been quoted earlier. The respondents 1 to 3 had mis-interpreted the true import of our judgement in the case of B.H. Ananthamurthy (supra) and they have apparently revised the seniority inter-se of the applicants in the case and the respondents 4 to 53 incorrectly.....

Persons who are given notional seniority cannot be obviously ranked above the persons who were regularly appointed earlier and the DPC has also to make recommendations for promotions keeping in view of the provisions of Rule 10 (2) of the aforesaid rules. The substantive capacity will be with reference to regular promotions and once in a particular rank a person has been regularly appointed on the basis of recommendations of the DPC etc. whether it is in the rank of Chargeman Grade-II or Chargeman Grade-I, or Assistant Foreman or Foreman, he will rank senior to the person who has been otherwise promoted proforma on the basis of notional seniority provided he was continuously officiated on that post in a regular manner without any break. Therefore, in the respective ranks or categories of posts the persons who had been regularly promoted earlier would en-block rank senior to the persons who would be granted proforma promotion and given notional seniority in terms of the orders of the Tribunal in the case of B.H. Ananthamurthy (supra) in the respective ranks or category of post." (emphasis given)

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The review application was allowed on 7.2.1991 by giving the above clarifications and also by amending the last sentence of the order in para 8 of the judgement in B.H. Ananthamurthy's case. That sentence read as follows:-

> "They shall not be entitled to past arrears of pay, but they shall be considered for further promotion on the basis of this revised notional seniority."

To avoid misinterpretation, the portion underlined was deleted and the last sentence was made to read as under:-

> "They shall not be entitled to past arrears of pay."

The respondent authorities were directed to revise the seniority list issued by the orders dated 13.1.89 and 25.2.89. This revision was carried out in the order dated 17.6.1991 (p.225) by which such revision was carried out.

18. OA-217/87 filed by Shishir Kumar Chattopadhyay and 5 others.

We can now pick up the thread left at the end of para 14 and consider the order passed on 14.2.1991 (page 116) by the Jabalpur Bench in OA-217/1987 - Shishir Kumar Chattopadhyay and 5 others Vs. Union of India and 99 others (Chattopadhyay's case for short). This OA was filed against the seniority list issued on 20/25.2.1987 (page 15) consequent upon the decision of the Madhya Pradesh High Court (page 30) in six petitions, referred to in para 8 supra, the SLP against which was dismissed by the Supreme Court. In

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this seniority list the respondents 4 to 100 of the OA (who were the petitioners in 5 of the 6 petitions before the M.P. High Court) have been placed above the applicants. These applicants stated that they were not parties to those writ petitions and their seniority has been disturbed to their detriment without any notice to them. The applicants claimed that they had been appointed as Chargeman II and on higher posts earlier than the private respondents 4 to 100. However, the private respondents were deemed to be appointed as Supervisor 'A' from the date they were appointed to the lower post of Supervisor 'B' and further declared to have been promoted as Chargemen II on completion of 2 years service as Supervisor 'A'. This was done consequent upon the judgement dated 4.4.1983 of the Madhya Pradesh High Court, referred to above. As a result, those respondents got earlier dates of promotion as Chargeman II and to higher grades and they were shown as senior to the applicants in the seniority list dated 20/25.2.1987. Hence, they prayed for quashing this seniority list.

19. After considering the objections of the respondents and relying heavily on the order passed on 7.2.1991 by the same Bench in MA No.24/1989 filed by S.B. Chakraborty & Others seeking a review of the judgement in B.H. Ananthamurthy's case (paras 15-17 refer) in which the Bench clarified what was meant by giving "notional seniority", the O.A. was allowed on 14.2.91 (page 116). The seniority list dated 20/25.2.1987 (page 15) was quashed and a fresh

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seniority list was directed to be prepared. Such a fresh seniority list was notified by the order dated 17.6.1991 (page 225).

20. Supreme Court's judgement in K.K.M. Nair's case.

Before dealing with OA-99/91 of the Calcutta Bench, referred to in para 14, it would be useful to follow the sequel to the above judgement in Chattopadhyay's case. Aggrieved by the decision of the Tribunal in that case, K.K.M. Nair and others appealed to the Supreme Court (C.A. 1690/93). That appeal was dismissed in K.K.M. Nair and Ors. Vs. U.O.I. & Ors. (1993) (2) SCALE 469) holding that the judgment of the Tribunal was in accordance with the law laid down by them in Paluru's case (AIR 1990 SC 166). The history of the long drawn out dispute was traversed in this judgement. The Court held that the three Judge Bench of the Court which delivered judgement in Paluru's case (1989) 2 SCR 92 = AIR 1990 SC 166) did not approve of the order dated 2.2.1981 of the two Judge Bench in Civil Appeal No.441/81 (i.e. Virender Kumar's case - AIR 1981 SC 1775). Inter alia, the Court observed in para 10 as follows:-

> "This Court in Paluru's case considered the rules, the first circular, the second circular and the order of this Court in Civil Appeal No.441/81 dated February 2, 1981. Dismissing the writ petitions this Court held as under:-
>
> 1. The executive instruction could make a provision only with regard to a matter which was not covered by the rules and such executive instruction could not over-ride any provisions of the rules.

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2. Notwithstanding the issue of the instructions dated Novermber 6, 1962 the procedure for making promotion as laid down in rule 8 of the Rules had to be followed, and the said procedure could not be abrogated by the executive instructions dated November 6, 1962.

3. The only effect of the circular dated November 6, 1962 was that Supervisor Grade 'A' on completion of two years satisfactory service could be promoted by following the procedure contemplated by Rule 8 of the Rules. This circular had indeed the effect of accelerating the chance of promotion. The right to promotion on the other hand, was to be governed by the rules. This right of promotion as provided by the rules was neither affected nor could be affected by the circular.

4. After coming into force of the circular dated January 20, 1966 promotions could not be made just on completion of two years satisfactory service under the earlier circular dated November 6, 1962, the same having been superseded by the latter circular.

5. Supervisor, Grade A who had been promoted before the coming into force of the circular dated January 20, 1966 stood in a class separate from those whose promotions were to be made made therearfter. The fact that some Supervisors, Grade A had been promoted before the coming into force of the circular dated January 20, 1966 could not therefore, constitute the basis for an argument that those Supervisors Grade A whose cases came up consideration thereafter and who were promoted in due course in accordance with the rules were discriminated against.

6. There are sufficient indications that when Civil Appeal No.441/81 was heard by this Court, the circular dated January 20, 1966 and the legal consequences flowing therefrom were not brought to the notice of this Court by the learned counsel for the respondents or the same were not properly emphasized." (emphasis added)

The Court upheld the judgement of the Jabalpur Bench of the Tribunal in Chattopadhyay's case (OA-217/87) but for a different reason. It held as follows in para 14 of the judgement:

"We agree with the conclusions reached by the Tribunal though we do not appreciate the

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reasoning adopted by the Tribunal in reaching the said conclusions. This Court has authoritatively laid down in Paluru's case that Civil Appeal No.441/81 was not correctly decided by this Court. The appellants have throughout been basing their claim on the order dated February 2,1981 in Civil Appeal No. 441/81. Once the base is knocked out by the judgement of this Court in Paluru's case the appellants are left with no ground to sustain the order dated February 20/25, 1987 by which they were given ante-dated seniority. Following the judgement of this Court in Paluru's case and the reasoning therein, we uphold the impugned judgement of the Central Administrative Tribunal, Jabalpur." (emphasis supplied)

21. A plea was raised by the appellants that the judgement dated 4.4.83 of the Madhya Pradesh High Court petitions having been approved by the Supreme Court on 28.7.86 while dismissing the S.L.P. against it, the Jabalpur Bench had no jurisdiction to quash the seniority list based on that decision. This issue was considered in para 16 of the judgement and it was observed, inter alia, as under:-

"It is not disputed that the said 'approval' by this Court was by dismissing the special leave petitions against the judgement of the Madhya Pradesh High Court. There is no reasoned judgement/order by this Court approving the judgement of the Madhya Pradesh High Court. It is not necessary for us to go into the question whether in a situation like this any Court could have reversed the judgement, by review or otherwise, because in this case we are faced with different situations. S.K. Chattopadhyay and others were not parties to the proceedings before the Madhya Pradesh High Court which ended by the dismissal of the special leave petitions by this Court on July 28, 1986. Till the date no action adverse to them had been taken by the DG or any other authority. It was incumbent on the appellants to have impleaded all the persons who were likely to be adversely affected in the event of appellants success in the writ petition before the Madhya Pradesh High Court. Under the circumstances even if it is assumed that the Madhya Pradesh High Court judgement had become final and could not have become final and could not have been reviewed by the High Court or the Tribunal, it became final only

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between the parties inter-se. The first circular was issued in the year 1962. The appellants filed writ petitions in the Madhya Pradesh High Court twenty years thereafter seeking enforcement of the first ciruclar. The petitioners wanted the clock to be put back by two decades through the process of the Court. All those persons who were promoted in accordance with the Rules during that long period and were not parties before the Madhya Pradesh High Court cannot be made to suffer for no fault of theirs. On the other hand, S.K. Chattopadhyay and others challenged the order dated February 20/25, 1987 which affected them adversely within the period of limitation before the Central Administrative Tribunal. In any case the judgement of this Court in Civil Appeal No.441/1981 having been over-ruled by Three-Judge Bench of this Court in Paluru's case, the appellants have neither the law nor the equity on their side. The judgement of the Tribunal being in conformity with the law laid down by this Court in Paluru's case, we see no ground to interfere with the same."(emphasis supplied)

22. Decision of Calcutta Bench in OA-99/91 Sudhir Kumar Mukherjee & Ors. vs. Union of India & Ors.

As seen from the judgement dated 30.12.1991 (page 112), this OA was filed (i) to quash the refixation of seniority by the order dated 27.7.89 and the orders of promotion dated 31.7.1989 and 29.9.1989 and (ii) refix the seniority of the applicants in the post of Chargeman II, Chargeman I and Assistant Foreman in accordance with the statutory Rules and existing instructions. The seniority list dated 27.7.1989, and the orders of promotion dated 31.7.1989 are referred to in para 12 and 13 supra. The Tribunal noted that the respondents submitted that the seniority list of 27.7.1989 has already been cancelled by the Ordnance Factory Board Memo dated 17.6.1991. Therefore, the promotion orders dated 31.7.1989 and 29.9.1989 which are based on the seniority list of 27.7.1989 have become nullities. The respondents also

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stated that the question of seniority was being reviewed. It is in this background that the Tribunal allowed the OA and quashed the promotion order dated 31.7.1989 and 29.9.1989 and directed the respondents to refix the seniority of the applicants in accordance with the statutory rules.

23. Apparently, the respondents did not produce before the Calcutta Bench, a copy of the order dated 17.6.1991 by which the seniority list dated 27.7.1989 was cancelled. That order is at page 225 and is filed as Annexure A-12 in Mannu Lal's case ibid. That order relates to the combined seniority list of all technical personnel in Ordnance Factories viz. Chargeman Grade II, Senior Draftsman, Supervisor 'A' (T), Senior Planner, Senior Rate Fixer and Senior Estimater as on 1.1.1973. After briefly referring to the various orders and judgements of the Supreme Court, High Court and the Tribunal, para 6 of that order indicated that the seniority of the aforesaid personnel in the pre-revised scale Rs.425-700 "will be dovetailed in one common list of seniority as on that date viz. 1.1.1973 as herein below mentioned." The details of the fixation of seniority follow thereafter in para-6.

24. Mannu Lal's case continued

We can now revert back to Mannu Lal's case referred to in para 14 supra. This OA typifies the grievances of one class of Chargeman II, i.e., those who claimed that their promotion as Chargemen II should be antedated on the basis of the judgements of

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the Supreme Court in Virender Kumar's case (AIR 1981 SC 1755) (para 7 refers). The grievance is that the antedated seniority given to them and the promotions given in higher posts from earlier dates have been cancelled by the order dated 17.6.91 (page 225) further revising the seniority of Chargemen II. It is to be noted that the beneficiaries of the judgement of the High Court of Madhya Pradesh in MP No.174/1981 (Dilip Singh Chauhan's case) and five other MPs (para 8 refers) and of the decision of the Jabalpur Bench in B.H. Ananthamurthy's case (para 9 refers) who were deprived of these benefits of the decision of the Jabalpur Bench in Chattopadhyay's case (para 18-19 supra refer) also have a similar grievance.

25. Case of Senior Draftsmen (Second category of Chargemen-II seeking seniority from 1.1.1973.

We can now consider the grievances of the second class of Chargeman II viz. the Senior Draftsmen 50% of whom were given the revised scale of pay of Rs.425-700 from 1.1.1973, which is the revised scale given to Chargeman II also. Their case is that by a series of orders of the Madhya Pradesh High Court, the respondent authorities have been directed to prepare a seniority list of Chargeman II as on 1.1.1973 in which their names should also be included. This was done by by the authorities but those orders have been reversed subsequently. None of the 5 OAs mentioned in the referral order of the Jabalpur Bench typifies this grievance. This grievance is contained in OA No.398/91 of the Principal Bench (Asit Kumar

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Shreemany & Others vs. U.O.I. & Ors.) which has been referred to the Full Bench by an order of the Hon'ble Chairman. We should, therefore, set out the issues involved in some detail.

26. Prior to 1.1.1973, which is the date w.e.f. which pay scales were revised on the basis of the decision taken on the recommendation of the Third Pay Commission, the posts of Senior Draftsman, Supervisor 'A', Senior Rate Fixer, Senior Planner and Senior Estimater, were in the same pay scale, i.e., Rs.205-280. These were feeder category posts for promotion to the post of Chargeman II which was in the higher pay scale of Rs.250-280. The Third Pay Commission recommended that the revised scale of Chargeman II should be Rs.425-700. It also recommended that 50% of the Senior Draftsmen should be placed in the pay scale of Rs.425-700 (i.e. the scale approved for Chargeman II) and that the remaining 50% should be in the lower scale of Rs.380-560. The pay scales of the other categories of persons i.e. other than Senior Draftsman were recommended to be revised to Rs.380-560.

27. <u>Decisions of Madhya Pradesh High Court declaring Senior Draftsmen to be Chargemen II from 1.1.73.</u>

The 50% of Senior Draftsmen who got the same scale of pay as that of the Chargeman II (Rs.425-700) filed a petition in the Madhya Pradesh High Court claiming that they should be given seniority along

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with Chargeman II from 1.1.1973 (MP No.312/81 filed by Yogender Pal Singh and others). This was decided on 19.10.1983 (Annexure I of OA No.398/91). It was noticed in the judgement that the petitioners had not only been given the pay scale of Rs.425-700 (i.e. the same scale as was given to Chargeman Grade II) but the benefit of this pay scale was given from 1.1.73 itself and arrears also paid to them. What is more important and what weighed heavily with the High Court was that, without any actual promotion to the grade of Chargeman II or absorption in that cadre, these 50% Draftsmen had been promoted to the grade of Chargeman Grade-I, which, under the Rules, could be filled up only by promotion of Chargeman Grade II. Inspite of these facts, the respondents contended that the petitioners could be treated as Chargeman Grade II only from 4.7.78 when orders were issued on the revised pay scale applicable to them and not from 1.1.73, the date with effect from which that pay scale was given. The learned single Judge found as follows:-

> "In my opinion, the petitioners' contention is well founded and must be given effect to. As appears from the two factory order Nos.2009 dated 1.7.1980, and 2039 dated 2.7.1980 (Annexure F), the petitioners have been treated by the respondents at par with Chargemen Grade II and have been promoted along with them to the post of Chargeman Grade I. This apparently was done because the petitioners were treated as holding the post equivalent to the post of Chargeman Grade II. In factum the petitioners were paid the scale of that post from 1.1.1973 as recommended by the Third Pay Commission. It is true that the order implementing that report was passed on 4.7.1978 but that order itself indicated that the benefits under the Third Pay Commission Report were given to the petitioners from 1.1.1973 only. Thus, for all purposes, the petitioners were held as incumbents of post in that scale from 1.1.1973. The respondents treated them at

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par with Chargeman Grade II and have promoted them along with those holding the post of Chargeman Grade II to the next higher channel of promotion viz. Chargeman Grade-I." (emphasis added)

The judgement then concluded as follows:-

"For the purpose of seniority vis-a-vis those then holding the post of Chargeman Grade II, the petitioner should be deemed to be holding the posts in this higher scale from 1.1.1973 only and an integrated seniority list of all persons eligible for promotion to Chargeman Grae-I should be prepared treating the petitioners as holding those posts from 1.1.73.

I, therefore, allow this petition and direct the respondents to prepare a seniority list of those persons including the petitioners and Chargmen Grade-II who were/are eligible for promotion to the post of Chargeman Grade I treating the petitioners as holding those posts from 1.1.1973 and not from 4.7.1978. There shall be no order as to costs of this petition. Security amount be refunded to the petitioners." (emphasis given)

This order was implemented in respect of the petitioners only.

28. The decision extended to all similarly placed Senior Draftsmen.

Subsequently, certain other Draftsmen filed Miscellaneous Petition Nos. 1944/84 (N.L. Junnotia and Others vs. U.O.I. & Ors.) and 1955/84 (M.N. Chandola and Ors. vs. U.O.I. & Ors.) before the Madhya Pradesh High Court. These petitioners sought the benefit of the order passed by the High Court in M.P. No.312/81 (Yogendra Pal Singh and Ors. vs. U.O.I. & Others), referred to above. A detailed order was passed on 23.4.1985 in M.P. No.1944/84 which was adopted in M.P. No.1955/84. The argument of the respondents that giving such benefit would be violative of the Indian Ordnance Factories (Recruitment and Conditions of Service of Class III

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Personnel) Rules, 1963, which require the Senior Draftsmen to be considered for the post of Chargeman Grade II, was repelled by the High Court in M.P. No.1944/84. The Court observed as follows:

> "The present case is not a case of promotion from Senior Draftsman to Chargeman Grade II, but is a case of upgradation of 50% posts of Senior Draftsman with effect from 1.1.1973. The effect of the recommendation of the Third Pay Commission, as accepted by the Central Government, is to convert 50% posts of Senior Draftsmen into the posts of Chargeman Grade II. The other 50% posts of Senior Draftsmen are not touched by this recommendation and, hence the rule may be applied to them. The posts with which we are concerned in this writ petition, have ceased to exist as Senior Draftsmen and have become the post of Chargeman Grade II, with effect from 1.1.73 for all purposes. The fact that the Central Govt. did not declare them to be so from 1.1.73 is, by itself, not sufficient to treat it as a promotional post. This fact is also implicit in the circular dated 4th July, 1978, which has been interpreted by this Court in the earlier judgement."(emphasis given)

29. Therefore, a direction was given to the respondents "to treat the petitioners and all other Senior Draftsman similarly situated as Chargeman Grade-II w.e.f. 1.1.1973 and not from 4.7.1978 and work out all equities and claims on the aforesaid basis."

30. Letters Patent Appeals against these orders were rejected by the order dated 21.11.1985. The SLPs filed before the Supreme Court against the orders of the Division Bench in the LPAs were also dismissed on 28.7.1986 (Annexure 5 ibid). Thereupon, the Ministry of Defence issued an order dated 9.4.1987 (Annexure 6 ibid) refixing the seniority of the erstwhile Senior Draftsman existing as on 31.12.1972 with Chargeman Grade II existing on 1.1.1973. That

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order gave all similarly placed Senior Draftsman seniority as Chargeman II from 1.1.73 and indicated their revised places in the seniority list of Chargeman II as on 1.1.77, issued on 15.11.78. Likewise, it ante-dated their promotion as Chargeman I and Assistant Foreman. It showed their revised positions as Chargeman I in the seniority list issued on 16.5.81 as on 1.1.81, and likewise, it also showed their revised position as Assistant Foreman in the seniority list issued on 28.4.86, which depicted the seniority as on 1.4.85.

31. It has only to be added that these judgements of the Madhya Pradesh High Court were followed by the New Bombay Bench while disposing of T.A. No.324/87 (Sayyed Zamir Haider & Ors. Vs. U.O.I. & Ors. on 31.12.1987 (Annexure 8 ibid). Those applicants were also Senior Draftsman. The respondents were directed to consider their cases for promotion as Assistant Foreman from the dates on which their juniors (i.e. beneficiaries of the judgements of the Madhya Pradesh High Court) were promoted.

32. Grievance of the Senior Draftsmen.

The grievance of these Senior Draftsman is that the revised seniority so fixed in pursuance of the judgements of the Madhya Pradesh High Court has been modified to their detriment. It is stated that certain 'compromise judgements' were delivered by the Benches of this Tribunal in 4 OAs in favour of Supervisor "A" and allied categories. In pursuance thereof the Ministry of Defence issued orders on

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07.08.1989 (Annexure 9 ibid). According to these orders, Supervisor "A" (Tech.) and allied categories (i.e. Sr. Planner, Sr. Estimator and Sr. Rate Fixer) - all grouped together and called Supervisor "A" for short, - were given the scale of Rs. 425-700 - i.e. same as Chargeman II, from 01.01.1973 on notional basis, with a direction for refixation of their pay on that basis and payment of arrears from 07.05.1989 only. A revised seniority list has been issued on 17.06.1991 (p.225) in respect of Chargeman II as on 01.01.1973 in which the applicants Asit Kumar Srimani & Ors. in OA 398/91 (i.e. Senior Draftsmen who were the beneficiaries of the judgement of the Madhya Pradesh High Court) have been placed junior to Supervisors "A" though such Supervisor "A" are shown as juniors of the applicants in the Annexure A-6 seniority list, dated 09.04.1987 refered to in para 30. Hence the applicants have sought direction to quash the orders dated 07.08.1989 (annexure 9 ibid) and dated 29.09.1989 (Annexure A-14 ibid).

33. Seniority case of the third group of Chargeman II viz. Supervisor 'A' given seniority from 1.1.1973.

As mentioned in para 32 above the Supervisor 'A' - which as stated therein include the allied categories also - are the beneficiaries of four orders of different Benches of the Tribunal. We can now examine these orders.

34. Decision of the Jabalpur Bench in OA182/87 - Dharam Nath Singh Vs U.O.I.

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The 3rd Pay Commission recommended for the Supervisor "A" Group the pay scale of Rs. 380-560 only, while it recommended Rs. 425-700 for 50% of the Senior Draftsmen. Before 01.01.1973, Supervisor "A" Group and the Senior Draftsman were on the same pay scale. The Supervisor 'A' group claimed that they should be given the same pay scale of Rs. 425-700 from 01.01.1973. The respondents granted them only the pay scale of Rs. 425-640 from 01.03.1977 by an order dated 21.05.1977. However, on their representation, in which it was pointed out that 50% of Senior Draftsman have been given the scale of Rs. 425-700, a High Power Committee examined the matter and recommended that the pay scale of Rs. 425-700 should be given to them also from 01.01.1973. This was not implemented by Government. Hence, OA No. 182/87 - Dharam Nath Singh & Ors. Vs U.O.I. was filed. That OA was ultimately decided by the Jabalpur Bench on 18.01.1989 (page 83) on the basis of an agreement between the parties. The respondents offered the following terms for settlement on the basis of instructions from the Ordnance Factory Board:

> "(a) Pay scale of Rs. 425-700 may be granted notionally w.e.f. 01.01.1973;
>
> (b) Fixation of pay will be done on that basis;
>
> (c) No arrears on account of the revised fixation of pay will be granted; and
>
> (d) The proposal will be valid if all the applicants accept the same."

The respondents also requested that Supevisor "A" and Senior Draftsman should be specifically mentioned and fixed in the pay scale of Rs, 425-700

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w.e.f. 01.01.1973. The Tribunal, therefore, ordered that "Senior Draftsman and Supervisor "A" and allied categories shall be entitled to fixation of pay and seniority w.e.f. 01.01.1973" on the terms agreed between the parties as stated above. No arrears on account of revised fixation would be granted for period before 06.05.1988 when the compromise was reached.

35. Decision of the New Bombay Bench in TA 440/86 M.P. Saha & Anr. Vs U.O.I. & Ors.

Similarly situated persons had sought reliefs even earlier than Dharam Nath Singh & Ors. referred to above. Their application was received on transfer in the New Bombay Bench of the Tribunal and registered as TA 440/86 - M.P. Saha & Ors. Vs U.O.I. & Ors. A decision was, however, rendered therein on 20.01.1989, i.e. two days after Dharam Nath Singh's case was decided by the Jabalpur Bench. The applicants sought a disposal on the same terms which were offered to the applicants in OA 182/87 before the Jabalpur Bench. Shri Ramesh Darda, the learned counsel for Govt. is stated to have informed the Bench, on instructions, that the respondents were prepared to give seniority to the applicants from 01.01.1973 at par with Chargeman. The OA was disposed of on these terms on 20.01.1989 (p.98). Subsequently, by order dated 21.06.1990 (p.99) in Review Petition No. 19/89, the reference to the statement attributed to Shri Ramesh Darda that the respondents were prepared to give seniority from 01.01.1973 was deleted. However, the

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Bench itself directed that "the applicants be given seniority from 01.01.1973 at par with Chargeman Grade-II."

36. Decision of the Calcutta Bench in OA 495/86 - Birender Nath Sahoo & Ors. Vs. U.O.I. & Ors.

Soon thereafter, on 01.03.1989 the Calcutta Bench too delivered a Judgement (Page 93) in a similar case i.e. OA 495/86 - Birendra Nath Sahoo & Ors. Vs U.O.I. & Ors. Reference was made to the earlier decision of the Jabalpur Bench in OA 182/87 and the following order was passed :

> "(1) The applicants shall be granted the pay scale of Rs. 425-700/- notionally with effect from 01.01.1973;
>
> (2) Fixation of their pay will be done on that basis;
>
> (3) No arrears on account of revised fixation of ay shall be granted till the date of this order;
>
> (4) Seniority of the applicants shall be fixed taking into account the fact that they have been granted the scale of Rs. 425-700/- with effect from 01.01.1973. This seniority wil be taken into account while determining their seniority in the posts to which they have been promoted from the posts in which they enjoyed the pay scale of Rs. 425-700.
>
> No arrears shall be payable on account of such fixation of seniority, but their pay shall be fixed notionally taking into account the seniority granted by this order."

37. Further decision of Calcutta Bench in OA-282/89 Bimal Baran Chakraborty & Ors. Vs. U.O.I.

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A further refinement in regard to determining seniority along with a clarification was given by the Calcutta Bench in OA 282/89 - Bimal Baran Chakravorty & Ors. Vs U.O.I. & Ors. in which the applciants wanted the order in Birendra Nath Sahoo's case (para 36 refers) to be applied to them. The OA was disposed of on 25.04.1990 with the following directions :

> "i) The seniority of the applicants in the grade of Rs. 425-700 as on 01.01.1973 should be refixed on the basis that they were also appointed to that grade on that date;
>
> ii) After drawing up the seniority list of all officials in the grade of Rs. 425-700 as stated above and as ordered by this Tribunal in OA 495/86, promotions to higher grades should be reviewed and regulated according to the seniority list so drawn up.
>
> iii) Promotions already made to higher grades of Rs. 550-750/- and Rs. 700-900/- need not be disturbed. If the applciants on the basis of their revised seniority as indicated above, are found fit for promotion to higher grades from retrospective dates, their seniority in those grades should be fixed above their juniors inthe revised seniority list as on the dates they are so found fit. However, they will draw pay in the higher grades only from the actual date of their promotion. But their pay on such promotion should be fixed as if they had actually been promoted on the dates they were found fit for promotion."(emphasis added)

38. It has to be noted here that in so far as Supervisor "A" is concerned, the Ministry of Defence had issued a letter dated 30.01.1980 (p. 224) which reads as follows :

> "I am directed to convey the sanction of the President to the merger of the posts of Supervisor "A" (Tech.) and other allied categories Senior Planner, Senior Rate-Fixer and Senior Estimator in the scale of Rs. 425-15-500-EB-15-560-20-700/- in Ordnance and Ordnance Equipment Factories including the DGOF Hqrs. and OEF Hqrs. with that of Chargeman Gr.II (Tech.) in the Non-Gazetted establishment w.e.f. 01.01.1980.

Consequently upon merger, the revised strength in the grades of Chargeman Gr. I(Tech.) and Chargeman Gr.II (Tech.) will be shown in the Annexure attached hereto."(emphasis given)

In none of the judgements mentioned in paras 34 to 37, this letter appears to have been brought to the notice of the Benches. Hence, the implications of this order for purposes of seniority as Chargeman II was, not considered in these judgements.

39. Consequent upon these judgements/orders of the Tribunal, the Ministry issued the order dated 07.08.1989 (Annexure 9 of OA 398/91), (i.e., Asit Kumar Shreemany's case) granting the pay scale of Rs. 425-700 to Supervisor "A" group from 01.01.1973 with arrears payable from 07.05.1988. This has been challenged in that OA (Para 32 refers). That OA also challenges the revised seniority list issued on 17.06.1991 (Page 225) and seeks a direction to maintain the seniority as notified by the Annexure 6 (ibid) order dated 09.04.1987.

40. <u>Fourth category, i.e, remaining 50% of Senior Draftsmen (given seniority as Chargemen-II from 1.1.1980.</u>

We have now to deal with the remaining 50% of Draftsman who were not given the scale of Rs. 425-700 from 01.01.1973 but were kept on the scale of Rs. 330-560. To identify them, we describe them as the residual Sr. Draftsmen. They successfully challenged this decision of Government before the Supreme Court on grounds of discrimination. That petition was allowed by the Supreme Court in the famous judgement

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- P. Savita and Ors. Vs U.O.I. & Ors. (1985 SCC (L & S) 826). The Supreme Court held that this decision was an instance of arbitrary and rank discrimination and directed that the pay scale Rs. 425-700 be paid to the residual Sr. Draftsman also. Thereafter, the residual Sr. Draftsmen filed OA 88/86 (P. Savita & 176 Ors. Vs U.O.I. & Ors.) before the Jabalpur bench, claiming the same benefit the High Court of Madhya Pradesh had granted to 50% sr. Draftsmen who were given the pay scale of Rs. 425-700 from 01.01.1973 on the recommendation of the Third Pay Commission in MP 1944/84 & 1955/84 (Paras 27 to 30 supra refer).

41. That OA was disposed of by the order dated 13.02.1991 (P.172). The Tribunal observed that the order dated 30.01.1980 (P.224) merging from 01.01.1980 the cadre of Supervisor "A" and allied categories with Chargeman II failed to include the Sr. Draftsman. (Obviously, this refers to the residual Sr. Draftsman only because in regard to the other 50% of Sr. Draftsman the Defence Ministry treated them as Chargeman II from 01.01.1973 and issued a combined seniority list dated 09.04.1987 (Annexure 6 of OA 398/91)). The Bench then refers to the decision taken at the J.C.M. Level III in June 1980 whereby all such Sr. Draftsman who held the post on 31.12.1972 became eligible for promotion to the post of Chargeman I like Supervisors "A". Orders were issued on 01.07.1980 - For the reason mentioned in the order of the Bench dated 13.02.1991 (P.172) to which we shall revert later on, the OA was disposed of with a direction to prepare an integrated seniority list including the applicants (i.e. the residual Sr. Draftsman) from

the date "they are merged and redesignated as Chargeman Gr. II." There was also a further direction that the respondents should also examine and consider the recognition of the Sr. Draftsman with effect from 01.01.1973 keeping in view the observations of that Bench in S.B. Chkraborty & Ors. Vs U.O.I. & Ors. MA 24/89 decided on 07.02.1991 (paras 15 to 17 supra refer). This aspect of inter-se seniority has also not been adverted to in the referral judgement of the Jabalpur Bench.

42. Fifth category of Chargemen - Regularly appointed Chargemen-II who claim seniority over categories 2 & 3.

We now come to the last group of persons who are aggrieved by the orders of the Ministry. They are Chargeman II who have either been appointed directly or by promotion from the feeder category of Sr. Draftsman and Supervisor A and allied categories on or after 01.01.1973. These appointments/promotions were made in accordance with the Recruitment Rules long before orders were passed either declaring that Sr. Draftsmen have to be treated as Chargemen II from 01.01.1973 (para 29 supra refers) or that Supervisor "A" and allied categories have to be given seniority as Chargeman II from 01.01.1973 (orders dated 17.06.1991 (P 225)). These grievances are voiced by the applicants in OA 91/93 of the Jabalpur Bench - A.K. Mukhopadhya & Ors. Vs U.O.I. & Ors. - now

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renumbered as OA 2601/94 and OA 293/93 of the Jabalpur Bench - U.D. Rai & Ors. Vs U.O.I. & Ors, now renumbered as OA-2598/94. Both these OA have been referred to the Larger Bench by the referral order of the Jabalpur Bench.

43. Particulars of the four OAs referred to the Full Bench.

We can first notice some more particulars of four out of five cases that have been referred to this Full Bench. The 5th O.A. (O.A. No. 350/93 of the Jabalpur Bench H.S. Ramamurthy and Anr. Vs. Union of India & Ors.), has already been disposed of by another Full Bench sitting at Jabalpur Bench vide their decision dated 16.11.1994 (Page 179).

(i) O.A. No. 91/93, A.K. Mukhopadhyay and four others Vs. General Manager, Grey Iron Foundary, Jabalpur and two others.

This is renumbered as O.A. 2601/94 of the Principal Bench. The applicants were Chargemen Grade-II prior to 01.01.1980. They appear to have been directly recruited as Chargemen Grade-II. On the date of filing the O.A., the first four applicants worked as Chargemen Grade-I while applicant No. 5 was working as Assistant Foreman which is a still higher post. Their grievance relates to the higher notional seniority given to Supervisor "A". The Supervisors "A" were redesignated as Chargeman Grade-II w.e.f. 01.01.1980. However, they have been given notional seniority w.e.f. 01.01.1973 and are placed above the

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applicants in the grade of Chargeman Grade-II. This came to the knowledge of the applicants by the order of promotion dated 08.02.1992, Annexure A-1 which promotes one N.M. Dikshita, Chargeman Grade-I to the post of Assistant Foreman.

This order has been issued in pursuance to the Ordnance Factory Board's letter dated 21.04.1992 Annexure A-1(a). This is an important document because it explains how the combined seniority of all Technical personnel as Chargeman Grade-II, Sr. Draftsman, Supervisor "A" (Tech), Sr. Planner, Sr. Rate Fixer and Sr. Estimator as on 01.01.1973 has been revised. It is contended that while granting promotion by Annexure A-1 to Shri N.M. Dikshita and fixing seniority as on 01.01.1973, the principles of law laid down in MA 24/89 (B.B. Chakravorty and Others Vs Union of India & Others) (Page 125) have been ignored.

Thus, in this case the directly recruited Chargeman Grade-II, or even those regularly promoted as Chargeman-II - who are in position after 01.01.1973 are aggrieved by the seniority given to the Supervisors "A" in the grade of Chargeman-II from 01.01.1973. This has been referred to in para 42 supra.

(ii) <u>O.A. 275/93 of Jabalpur Bench, Mannu Lal and 14 Ors. Vs Union of India and another.</u>

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This is renumbered as OA 2591/94 of the Principal Bench. These applicants are also aggrieved by the seniority list dated 24.01.1992 referred to in the first case, OA 2601/94 (A.K. Mukhopadhyay & Ors. Vs Union of India & Ors.) referred at (i) supra. They are also aggrieved by the subsequent order dated 25.02.1993 (Annexure A-17) which communicates the order dated 23.02.1993 of the Ordnance Factory Board which reads as follows :

> "Sub:- Promotion to Foreman/Tech- Cancellation of.
>
> By reason of the Judgement dt 30-12-91 OM No.88 of 1991 passed by the Hon'ble CAT Calcutta the promotion order issued Order OFB NO.3265/E(T)/A/NG dt. 31-7-1989 stands quashed. Accordingly, the said promotion order became non-existent from 30-12-91. So the beneficiaries of the said promotion order stand reverted. This is subject to the outcome of pending cases in the Hon'ble Supreme Court Viz. SLP Nos.13257/91, 14071/91 (KKM Nair & others Vs. UOI & others and B.K. Ananthamurthy Vs. UOI & Others)."

(ii) OA-276/93 (Jabalpur Bench) (K.D. Roy & Anr. vs. U.O.I. & Ors.) renumbered as OA-2597/94).

In this case, the complaint of the applicants is that by the impugned Annexure A-7 order dated 23.2.1993 they are sought to be reverted. The main reason for reversion is that this is in pursuance of the order dated 30.12.1991 of the Calcutta Bench in OA-99/91 (Sudhir Kumar Mukherjee & Ors. vs. U.O.I. & Ors) para 22 (supra) refers. That order of the Tribunal related to quashing of the seniority list dated 27.7.89 and the orders of promotion dated 31.7.89 and 29.9.1989. The applicants state that their promotion is based on the seniority list dated 24.4.1987 and not on the seniority list dated

27.7.1989. This exactly was the issue in the fifth case referred by the Jabalpur Bench OA No.350/93 (H.S. Ramamurthy & Anr.) which has been disposed of separately by the Full Bench sitting at Jabalpur by the order dated 16.12.94 (page 179). The Full Bench decided to modify the final order of Jabalpur Bench to save such cases from the mischief of the directions of that Bench.

(iv) OA-293/93 (Jabalpur Bench) (U.D. Roy & Anr. vs. U.O.I. & Ors.) renumbered as OA No.2594/94 PB).

In this case, the applicants are directly recruited chargeman who have been appointed on or after 1.1.1973 and are aggrieved by the seniority given to Supervisors 'A' as Chargeman Grade II. This is similar to the case of Mukhopadhaya referred to above at serial No.(i).

44. Procedure followed by the Full Bench.

(i) Considering the nature of the dispute and the need felt to settle the disputed issues once and for all, the Full Bench sitting at Jabalpur gave a direction on 15.12.1994 in OA 91/93 of that Bench, i.e. A.K. Mukhopadhyay Case (O.A. 2601/94 of Principal Bench) as follows :

> " The dispute in this petition relates to seniority on the post of Chargeman Grade-II. After hearing the learned counsel of parties it appeared that appointment to this post was made from various sources. In the writ petition only the Union of India and its officers have been impleaded as respondents. The incumbents who have been drawn from various sources have not been impleaded.

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> They are in large numbers. Accordingly, their impleadment by name would be inconvenient. We consider it appropriate in order to give finality to the dispute that general notice be given to all categories of persons."

This OA and the connected OAs were then transferred to the Principal Bench by the order of the Hon'ble Chairman. MA 124/95 was filed by the applicants that the parties could be better served if the official/respondents (i.e. Govt.) are directed to issue the said notice through a Factory Order. Suitable directions were given to Government in this regard to publish in a Factory Order, a copy of the referral judgement of the Jabalpur Bench and also indicating that interested parties could seek impleadment.

45. Such notices were published and in response thereto 327 MAs have been filed in three OAs (OA-2601/94 = 301, OA-2598/94 = 4 and OA-2591/94 =22). We have rejected those MAs where the applicants sought impleadment as additional applicants and not as additional respondents. Thus 3 MAs in OA 2598/94 (U.D. Roy's case), 19 MAs in OA 2591/94 (Mannu Lal's case) have been rejected.

46. Thus, we now have in all 305 MAs filed in the above OAs. They have either filed separate replies to the OAs or they have set out their case in the MAs itself.

47. While the four OAs (excluding OA NO.350/1993, of the Jabalpur Bench) referred by the Jabalpur Bench to the Hon'ble Bench for being disposed of by a larger Bench were pending, there were a number

of similar other applications pending in various Benches. By the orders of the Hon'ble Chairman, the OAs not filed before the Principal Bench were transferred to the Principal Bench and he further directed that they should be disposed of along with the four OAs referred by the Jabalpur Bench to the Larger Bench. Thus, we are now dealing with a batch of 42 cases, including the four cases referred by the Jabalpur Bench. We have heard all the counsel who appeared for various parties. We also gave an opportunity to the individuals who appeared in person and did not have any counsel to assist them.

48. Classification of cases.

In spite of the Hon'ble Chairman's order, there was a dispute that all these other cases are not concerned with the issues raised before this Full Bench. We have treated A.K. Mukopadhyay's case (OA No.2601/94 of Principal Bench) as the main case for recording of orders. On 20.3.1995 we took up each case separately with a view to classifying them into three groups:

i) In the first group, there are 31 cases. These are cases about which both parties agree that they are properly referred to the Full Bench.

ii) The second group includes 5 cases. These are cases about which both the parties agree that they are not concerned with the issues raised before the Full Bench.

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iii) There are 6 cases in the third group. These are cases about which only one party submits that the issues raised are similar to the issue raised in the Full Bench cases.

49. We decided that this Full Bench should deal with all those cases about which the parties are agreed that they have been rightly referred to this Bench.

50. In OAs regarding which there is dispute among the parties as to whether the OA pertains to the dispute before the Full Bench or not, our orders are given at the end.

51. <u>The disputed issues having a class character</u>.

We can now discuss the merits of the disputed issues. We take these disputes, as far as possible, in the following order:

i) Case of Supervisors 'A' who have claimed accelerated promotion as Chargeman-II on the basis of the order dated 6.11.1992 of the Director General Ordnance Factory granting promotion after completion of two years on the basis of Virendra Kumar's case (AIR 1981 SC 1775) and the sequel thereto.

ii) Cases of other Supervisors 'A'who are similarly situated like those at Serial No.(i) in respect of whom orders have been

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passed by Courts other than the Supreme Court of India (i.e. judgement of M.P. High Court dated 4.4.1983 in M.P. 174 of 1981 (Dilip Singh Chauhan & Others) and five other MPs and, decisions of the Jabalpur Bench in B.H. Ananthamurthy's case and Ravindra Nath Gupta's case (T.A. 322/86 and TA 104/86).

iii) Case of 50% Senior Draftsmen who have claimed seniority as Chargeman Grade-II from 1.1.1973 based on the judgement of the M.P. High Court in the Yoginder Pal Singh's case (M.P. 312/81).

iv) Case of the residual 50% Senior Draftsmen who were not initially given the pay scale of Rs. 425-700 from 1.1.73 in respect of whom the Jabalpur Bench of the Tribunal has passed orders in O.A. 88/1986 (P. Savita & 176 Others Vs. Union of India & Others).

(v) Case of the Supervisors 'A' and allied groups for seniority as Chargeman-II from 1.1.1973 based on the judgements of the Benches of this Tribunal at Jabalpur (O.A. 182/87, Dharam Nath Singh's Case), New Bombay (TA 440/86, M.P. Saha's case) and Calcutta (O.A. 495/86, Birendra Nath Sahoo's case and O.A. 289/89, Bimal Baran Chakravorty's case).

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(vi) Case of Chargeman-II who have been directly recruited on or after 1.1.1973 or have been so promoted regularly from the feeder grades, in accordance with Rules who have a grievance against all the above groups in respect of seniority as Chargeman-II.

52. Case of the Supervisors "A" who have claimed accelerated promotion as Chargeman-II on the basis of the Director General Ordnance Factory's circular dated 6.11.1962 (Serial No. 1 of para 51).

As can be seen from paras 5 to 24 supra, the sequence of events in regard to these claimants are as follows:

(i) Claim of Virender Kumar and others to get promoted after completing two years of service as Supervisors 'A' on the basis of the DGOF's circular dated 6.11.1962 was negatived by the Division Bench of the Allahabad High Court. In appeal, the Supreme Court allowed their claim in a short order (AIR 1981 SC 1775) reproduced in para 7 supra.

(ii) Based on this decision of the Supreme Court, the Madhya Pradesh High Court allowed M.P. No. 174/1981 (Dilip Singh Chauhan's case) and five other petitions, including M.P. 9/1982 filed by K.K.M. Nair and others (para 8 refers). SLP filed against this

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decision was dismissed by the Supreme Court. Thereupon, a revised seniority was drawn up on 20/25.2.1987 (Page 15) giving antedated seniority to all these petitioners. Petitions were filed by others before the Supreme Court claiming benefits given to Virender Kumar and others in AIR 1981 SC 1775. Virender Kumar & others also filed contempt petition for implementing the Supreme Court's above order. These petitions were heard in detail by the Supreme Court in Paluru's case (AIR 1990SC 166). A gist of the order is reproduced at paras 10 and 11 supra. The Supreme Court held that the petitioners had no right to accelerated promotion based on executive instructions de hors the statutory rules. The contempt petition filed by Virender Kumar and others was dismissed but it was held that they should be granted the same relief as the petitioners before the M.P. High Court were given by the decision dated 4.4.1983 of that Court.

(iii) Based on this judgement of the Supreme Court, the seniority of Virender Kumar and others in Chargeman-II and higher grades was revised by the order of the Ordnance Factory Board dated 27.7.1989 (Annexure A-8 in Mannu Lal's case - O.A. 2591/94).

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(iv) The revised seniority list referred to in (ii) above, adversely affected certain Chargeman-II who were earlier ranked senior to the petitioners in the M.Ps. disposed of by the M.P. High Court and had been issued without giving them a hearing. Hence, Shishir Kumar Chattopadhyay & Ors. filed O.A. No. 217.87 impleading all the beneficiaries of the judgement of the M.P. High Court. This OA was allowed by the Jabalpur Bench of the Tribunal. The impugned seniority list was quashed.

(v) In appeal, the Supreme Court upheld that decision of the Tribunal (K.K.M. Nair and Ors. Vs. Union of India, 1993(2) SCALE 469). An extract of that judgement is reproduced in paras 20 and 21 supra. It was held that, after the circular dated 20.1.1966 was issued (Para 6 refers), promotion, as Chargeman-II, could not be made just on completion of two years service as Supervisor 'A' and that there was no legal foundation for any such early promotion. Hence, such promotions could not be given. This knocked the bottom of the case of the appellants before the Supreme Court and hence it was held that the order dated 20/25.2.1987 giving ante-dated seniority (vide (ii) above) could not be sustained.

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53. The learned councel for the applicants in such cases, (e.g. Mannulal's case OA-2591/94 of PB) namely, S/Shri V.K. Tankha and S. Nagu contended that the decision of the Supreme Court in Virender Kumar's case as modified by the judgement in Paluru's case, had not been upset by this Tribunal in Chattopadhyay's case, i.e. OA 217/87. Therefore, the higher ante-dated seniority given to them by the revised seniority list dated 27.7.1989 (Annexure A-8 in Mannu Lal's case) could not have been cancelled by Government. Nor could that seniority list have been cancelled by Government on the basis of the decision of the Calcutta Bench in O.A. 99/91 (Shishir Kumar Mukherjee's case) referred to in para 22. In any case the Supreme Court's decision in K.K.M. Nair's case [1993(2) SCALE 469 will not apply to these persons who were not parties to that judgement.

54. We have carefully considered these contentions. Before proceeding on merits, the facts have to be correctly recorded. The decision of the Calcutta Bench of the Tribunal on 30.12.91 in OA-99/91 (Sishir Kumar Mukhopadhyay's case) has nothing to do with Government's decision to cancel the refixation of seniority done on 27.7.89 (paras 22 & 23 refers). That order had already been issued by Government on 17.6.91 (page 225). Para 6 (ii) of that order reads as under:-

> "(ii) Amendments were made to this Seniority List based on the judgements referred to above vide orders No.3265/Seniority/Dip//A/NG Dt. 20/25.2.87, 29.3.88, 30.3.88, 18.11.88, 13.1.89 and 17.11.89 Nos.3265/Seniority/Dip/VK/A/NG

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dated 27.7.89 and 11.6.90 and No 100/Misc/A/NG Dt. 9.4.87 respectively were issued.

These orders will be treated as cancelled in view of the judgements dt. 7,14 & 13.2.91 of CAT (Jabalpur) referred to in para 5 above."

Therefore the seniority list dated 27.7.89 was cancelled because of the three judgements of the Jabalpur Bench referred to therein. They are (i) the judgement dated 7.2.91 in MA-24/91 (S.B. Chakravorty's case paras 15 to 17 refer), (ii) the judgement dated 14.2.91 in OA-217/87 (Chattopadhyay's case (paras 18 & 19 refer) and (iii) judgement dated 13.2.91 in OA 88/96 (P. Savita's case - paras 40 & 41 refer). The Ministry's order dated 17.6.91 does not state the reasons why this revised seniority was cancelled.

55. However, we are satisfied that this order is fully justified by the decision of the Supreme Court in K.K.M. Nair's case. That decision (1993 (2) SCALE 469) sealed the fate of the petitioners before the Madhya Pradesh High Court in M.P. No.174/81 and five other petitions who were all the respondents in OA-217/87 filed by S.K. Chattopadhyay before the Jabalpur Bench, in so far as their claims for antedated seniority as Chargeman II, relying on the decision of the Supreme Court in AIR 1981 SC 1775 (Virender Kumar's case), is concerned. Therefore, in respect of these persons the Supreme Court finally held that there was no case for granting them any promotion from any earlier date based on the circular dated 6.11.1982. It is, no doubt, true that the respondents in 217/87 did not include Virender

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Kumar and others who were the beneficiaries of the Supreme Court's judgement in AIR 1981 SC 1775. But the Supreme Court clarified in Paluru's case (AIR 1990 SC 166) that Virendra Kumar and others can get no other reief than what was given by the M.P. High Court to the petitioenrs before them in the petitions No.174/81 and five other petitions. That relief, particularly the one relating to grant of higher seniority based on automatic promotion, as Chargeman-II after completing 2 years service as Supervisor 'A' and the consequential revision of the seniority list, was struck down by the Jabalpur Bench in Chattopadhyay's case (OA No.217/87). That decision of the Jabalpur Bench was upheld by the Supreme Court in K.K.M. Nair's case. If this is the final decision of the Supreme Court in respect of the petitioners before the M.P. High Court, Virendra Kumar and others cannot be given any better benefit, because of the terms of the judgement of the Supreme Court in Paluru's case supra, which specifically disposed of the Contempt Petition filed by Virendra Kumar and others (the appellants in Civil Appeal No.441/91). In that judgement, the Court held, inter alia "it would be appropriate that the appellants in Civil Appeal No.441/1981 may also be granted the same relief which was granted to the petitioners in the writ petitions before the Madhya Pradesh High Court." As stated above, the benefit given to those petitioners was quashed by the Tribunal in Chattopadhyay's case (OA-217/87) and this was upheld by the Supreme Court. Hence, no relief is due to Virendra Kumar and others. They will also share the fate of the appellants before the Supreme Court in K.K.M. Nair's case. Therefore, the Annexure A-8 seniority list dated 27.7.1989 in

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Mannulal's case (OA-2591/94) giving antedated seniority as Chargeman II has no legal foundation and hence it was rightly cancelled by Government. Therefore, this O.A. is liable to be dismissed.

56. It is only necessary to add that the applicants in TA-322/86 and TA-104/84 (i.e. B.H. Anantamurthy and Ravinder Nath's cases) decided by the Jabalpur Bench cannot be in a better position than Virendra Kumar and others and the petitioners before the Madhya Pradesh High Court. More so, when the scope of the directions given by that Bench in these two TAs was subsequently clarified by the order in review in M.A. 24/1989 filed by S.B. Chakraborty and others which has been extracted in para 15 supra. The Bench clarified that it was not intended to give the applicants in the TAs any higher seniority over those who had already been promoted as Chargeman-II before them.

57. One more foot note has to be added. It will be seen that the applicants in both Ananthamurthy's case TA-322/86 and Ravindra Nath's case (TA-104/86) decided by the Jabalpur Bench are Science Graduates (para 9 refers). Supervisors 'A' who were Science Graduates claimed that like Supervisors 'A' who were diploma holders in Engineering, they are also entitled to be promoted as Chargeman-II after completing two years' service as Supervisor 'A'. This was allowed in B.H. Ananthamurthy's case supra. But a Full Bench of the Tribunal sitting at Bombay to hear OA-169/87 (Abraham Thomas & 25 Others vs. UOI & Ors.) and a batch of OAs

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held on 23.8.90 (page 154) that, at any rate, the circular 6.11.62 granting promotion on the completion of two years service as Supervisor 'A' never applied to Science Graduates. On that ground also, these Science Graduates are not entitled to any earlier promotion or earlier seniority.

58. In other words, all the categories of persons mentioned in items (i) and (ii) of para 51 supra are entitled to promotion as Chargeman II only in accordance with the recruitment rules and not from any earlier date on the basis of the circular dated 6.11.62. Accordingly, these persons would reckon the seniority in the grade of Chargeman II only from the date they were promoted on the basis of the normal rules and not from the date of completing two years service as Supervisor 'A'.

59. Case of 50% of Senior Draftsmen (item (iii) of para 51 supra)

This is exemplified by OA-398/91 of the Principal Bench (Asit Kumar Shreemany & Ors. vs. U.O.I. & Ors.). The Third Pay Commission divided the Senior Draftsmen into two categories. 50% were recommended the revised pay scale of Rs.425-700, which is the same as the revised pay scale recommended to the Chargeman II. The remaining 50% were recommended the lower revised pay scale of Rs.380-560 which was also the pay scale given to Supervisors 'A' and allied groups. An order dated 4.7.78 appears to have been passed on these recommendations by Government. A copy of that order not available in the record before us.

According to Government, by this order, their decision on the basis of the Third Pay Commission's recommendation in regard to the Senior Draftsmen was announced, namely, that only 50% of them will get the revised pay scale of Rs.425-700. However, a perusal of the judgement of the M.P. High Court in Yogender Pal Singh's case (M.P. No.312/81) seems to suggest that this order amounted to treating the Senior Draftsmen as Chargemen II from 1.1.1973.

60. Though the facts are not fully clear, we find it necessary to observe that merely because 50% of the Senior Draftsmen were granted from 1.1.1973 the same scale (Rs.425-700) as was given to Chargeman II, though, before that date, the latter post carried a higher pre-revised scale than the former and was a post of promotion, it could not have been concluded or declared, without any thing more, that such Senior Draftsmen automatically became Chargemen II from 1.1.1973. The mere equality of the pay scales did not abolish the functional differences, which obviously existed even thereafter. On 1.1.1973, when the pay scales became equal, the only consequence was that the question of promoting Senior Draftsmen as Chargemen II, could not arise because, one of the essential benefits/ingredients of promotion is to get a higher pay scale. But that did not mean that the two posts got either equated or merged. It only meant that if the Senior Draftsmen were to get further promotion they should first gain an entry into the cadre of Chargeman II which could not be automatic. This could not have been otherwise even if, after the 4.7.1978 order was passed, the Senior Draftsmen were directly

promoted as Chargeman I, without first making them Chargeman II. The proper course could, perhaps, have been to give a direction to screen the Senior Draftsmen so as to identify such of them as could be absorbed as Chargemen II from 1.1.1973, even though no promotion was involved. On that basis, an order of absorption of such Senior Draftsmen as Chargeman II could have been passed and such Senior Draftsmen could then have been considered to be in the cadre of Chargemen II from the date of such absorption. Alternatively, it was open to Government to merge the cadre of 50% of Senior Draftsmen with the cadre of Chargemen II, as was done in the case of Supervisor 'A' by the orders dated 30.1.1980 w.e.f. 1.1.1980 (para 38 refers).

61. Be that as it may, the fact of the matter is that, that decision of the M.P. High Court that 50% of the Senior Draftsmen are entitled to be treated as Chargemen II from 1.1.1973 in pursuance of circular dated 4.7.1978 and be given seniority from that date was reiterated by the same Court in two subsequent decisions in M.P. No.1944/84 and 1955/84 (para 28 refers). It was further held by the Court that the decision should be made applicable not only to the petitioners who appeared before the Court but to all similarly situated persons. The Letters Patent Appeals in the latter two cases were dismissed. The S.L.P. filed against the decision in these two LPAs was also dismissed by the Supreme Court by the order dated 28.7.86.

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62. As this decision became final, a revised seniority list of 50% of the Draftsmen who had been given the pay scale of Rs.425-700 from 1.1.1973 was notified on 9.4.87 (Annexure 6 ibid). In the absence of any other judicial decision to the contrary giving any different direction, the respondents could not have altered that seniority given to the Senior Draftsmen by the above orders. That, in the nutshell, is the argument of Sh. Y.B. Phadnis and Sh. N.Y. Phadnis, the learned counsel for the applicants in OA-398/91 (Shreemany's case).

63. On the contrary, Sh. Ramesh Darda for the Government states that subsequent thereto, there has been a direction by the three Benches of the Tribunal, i.e., Jabalpur, New Bombay & Calcutta to accord seniority to Supervisors 'A' also from 1.1.1973. It is Government's stand that, therefore, the seniority of Chargemen II on 1.1.1973 was required to be recast, taking into account the judgements in favour of the Senior Draftsmen and the judgements in favour of Supervisors 'A' and allied categories. Both groups were given seniority from same date, i.e, 1.1.1973. Therefore, inter-se-seniority had to be determined only on the basis of the inter-se-seniority which existed before 1.1.1973.

64. That takes us to a consideration of item (v) of Para 51 at this stage itself as the items (iii) and (vi) are inter linked. This contention of the Ramesh Darda, at first blush, appears to be a plausible explanation of the decision of Government to

recall the seniority list issued in 1987 in favour of the Senior Draftsman. However, on closer scrutiny, we do not find much merit in this argument.

65. In the first place, the judgements delivered by the M.P. High Court in the Senior Draftsmen's cases and the consequential orders of seniority issued on 09.04.1987 are all anterior to the orders of the various Benches of the Tribunal regarding seniority in the case of Supervisors 'A'. Secondly, unlike the M.P. High Court's judgements in the Senior Draftsmen's cases, where the main issues whether seniority should be given from 1.1.1973 on the ground that the same pay scale has already been given from the date was deliberated at length on merits. There is no such discussion in the orders of the Tribunal in the cases of the Supervisors 'A' about the issues of seniority. The orders appear to have passed on the basis of the consent given by Government. As a matter of fact, in one case (T.A. 440/86 of the New Bombay Bench) (para 35 refers), it was later found in review that no such consent had been given by the respondents. Nevertheless the Bench itself gave a direction in this regard.

66. What is more important is that in none of these cases, two important facts were brought to the notice of the Benches. Government's failure in this regard is inexplicable. They failed to inform the Benches that in the case of the Senior Draftsman, the High Court of M.P. has already passed specific orders that they should be given seniority from 1.1.1973 as Chargeman II and Government should,

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therefore, have sought further suitable directions from the Benches as to how the inter se seniority of Senior Draftsman should be fixed vis-a-vis the Supervisors 'A' and allied categories in whose favour the Benches gave a similar decision by consent.

67. In our view, the most serious default of Government was its failure to bring to the notice of the Benches that a regular order absorbing of the Supervisors 'A' and allied groups as Chargeman Grade II w.e.f. 1.1.1980 had been issued by Government by their order dated 30.1.1980 (para 38 refers) and that none of the Supervisors Grade A had questioned the validity of that order of absorption in any proceeding. In the circumstance that order remains unchallenged and is final.

68. It may be recalled here that the case of the Supervisors 'A' and allied groups is quite different from that of the 50% of the Senior Draftsmen. The Third Pay Commission did not recommend that they should be given the scale of Rs.425-700 from 1.1.1973. They, along with the remaining 50% of the Senior Draftsmen were placed on a lesser pay scale Rs.380-560. Thereupon, they felt aggrieved and represented to Government, who voluntarily agreed to offer the pay scale of Rs.425-640 from 1.3.1977 vide their order dated 21.5.77. This was not accepted and four OAs were filed in the Jabalpur, New Bombay and Calcutta Benches wherein the main claim was that they should be given the revised pay scale of Rs.425-700 from 1.1.1973. It is while disposing of these petitions that, at least in 2 cases, Government also

appeared to have given its consent that seniority may also be fixed from 1.1.1973. These have been referred to in paras 34 to 37 supra.

69. In the circumstances, we are of the view that the orders of the Tribunal (paras 34 to 37 refer), in so far as they concern grant of seniority to Supervisors 'A' as Chargeman II w.e.f. 1.1.1973, have to be treated as having been given per incuriam ignoring the most important document, namely the absorption from 1.1.1980 only of Supervisors as Chargemen II which remains unchallenged. We have already expressed our view (para 59) that even in the case of Senior Draftsmen, the proper order ought to have been to direct Government to first issue an order of their absorption in the cadre of Chargeman II. It is, therefore, strange that neither the order of absorption of Supervisors 'A' from 1.1.1980 was challenged by any of the applicants in the above OAs, nor was it referred to by Government. Hence, those orders cannot confer seniority on Supervisors 'A' from a date anterior to the date of their absorption as Chargeman II and they cannot disturb the seniority lawfully conferred on Senior Draftsman from 1.1.1973.

70. We, therefore, hold that as on 1.1.1973 50% of the Senior Draftsman who have been given the benefit of the revised pay scale of Rs.425-700 have to be shown as chargeman-II in terms of the orders of the M.P. High Court and the seniority list so prepared could not have been altered by Government. Hence, the applicants in OA-398/91 (Asit Kumar Sreemany's case) are entitled to relief on this basis.

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71. Case of the remaining 50% of the Senior Draftsmen (i.e. iv of para 10 supra).

We have perused the judgement of the Jabalpur Bench of the Tribunal in OA-88/1986 (P. Savita & 176 others vs. U.O.I. & Others) in which this issue was directly considered. With great respect, we are unable to subscribe to the views expressed by that Bench (para 41 refers). P. Savita and others won their case in the Supreme Court when they got a declaration in their favour that they too, (i.e. remaining 50% of the Senior Draftsmen) are also entitled to the pay scale of Rs.425-700 from 1.1.1973. The implication of this judgement of the Supreme Court is that the orders of 4.7.1978 of Government regarding revision of pay scales would stand revised retrospectively. Instead of giving the revised pay scales of Rs.425-700 to only 50% of the Senior Draftsmen, that order sould be read to have given that pay scale to all Senior Draftsmen including the residual 50% of Senior Draftsmen. If this be so, we are unable to see how the benefit of the M.P. High Court Judgement in Yogendra Pal and Others (M.P. No.174/81 and M.P. 1944/84 and 1955/84) declaring that as a consequence thereof the Senior Draftsmen should also get seniority as Chargemen II from 1.1.1973 can be denied to this residual category of 50% Senior Draftsmen.

72. However, the learned Jabalpur Bench has specifically held that this residual group of Senior Draftsmen can get such seniority only from 1.1.1980

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along with the Supervisors 'A' and allied Groups who have been absorbed from that date as Chargemen II. No doubt, there is a further direction to Government to consider whether they can be given seniority from 1.1.1973. Apparently no other order has been passed. This order of the Tribunal has become final. No Senior Draftsman belonging to this category appears to have challenged this order. In the circumstance, even though we are of the view that these Senior Draftsmen could not have been differentiated from the Senior Draftsmen in whose case the orders of M.P. High Court have been passed, we are bound to hold that the benefit of that judgement cannot be given to them in the light of the Jabalpur Bench's decision in OA-88/1986. Hence, such Senior Draftsmen can reckon seniority as Chargemen II only from 1.1.1980.

73. Case of regularly recruited Chargemen II (i.e. vi of para 51). These Chargemen are appointed regularly either by way of direct recruitment or by way of promotion on or after 1.1.1973. Their dispute is vis-a-vis the Senior Draftsmen and the Supervisors 'A' and the allied group referred to above. Their case has been vehemently putforth by Sh. Tankha and Sh. K.K. Dutta. They stated that as the Rules then stood Senior Draftsmen, Supervisors Grade 'A' and allied Groups were in the feeder category for promotion as Chargemen II. The post of Chargmen II could also be filled up by direct recruitment of outsiders. In case of promotion, all eligible persons were considered. Those who did not make the grade had to continue as Senior Draftsmen or Supervisors 'A' and allied categories. Now, by the operation of the

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judgement of the M.P. High Court, 50% of the Senior Draftsmen are declared as Chargemen Grade II from 1.1.1973, even though many of them did not make the grade and did not get promoted as Chargemen II when their case was considered. It is, therefore, contended that the Senior Draftsmen cannot steal a march over those who were regularly promoted as Chargemen II. That argument also applies to the case of Supervisors 'A'.

75. Before we set out our conclusions we should refer to two matters.

76. The first is the implication of "notional seniority" which has been used in some of the judgements of the Tribunal. This issue has been considered by the Supreme Court in a few cases. One such case is S. Krishna Murthy Vs. General Manager, Northern Railway, AIR 1987 SC 1868 (referred to by the M.P. High Court in its decision dated 4.4.83 disposing of OA-174/1991 and 5 other petitioners - Para 8 refers). The appellant therein was unfortunately not considered for promotion as Assistant Yard Master. The Railway Administration themselves discovered the injustice done to the appellant and set right the mistake vide its order dated 10.11.1965. By that time, others similarly situated and junior to the applicant had been absorbed as Traffic Inspectors, i.e., a still higher post. The appellant's representation was unsuccessful and he moved the High Court unsuccessfully. In the appeal, Supreme Court noted that he was entitled to be promoted as Assistant Yard Master at the appropriate

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time but this was not done and this mistake was set right only in November, 1965. Had he been promoted as Yard Master in time, he too should have been absorbed as Traffic Inspector like others from 1.1.59. Though he should normally have been appointed as Traffic Inspector on 1.1.59, yet that could not be done by putting the clock back but he should be appointed as Traffic Inspector from the date he came to the High Court i.e. 20.12.1987. The Court observed as follows:-

> "...Those who were promoted earlier might be adversely affected if we direct the appellant's appointment as traffic inspector with effect from an earlier date. We desist from doing so."

However, the Court gave an observation in the matter of fixation of pay. It held:-

> "It is, therefore, reasonable that the appellant should be fitted into the scale of pay at a point where full notional seniority which he would have been entitled to, had the right thing been done at the right time, is recognised. Plainly put, he will be drawing a salary on 20th December 1967 on the basis of a notional appointment as traffic inspector as on Ist January, 1959."

Paras 5 and 6 are important and are reproduced below:-

> "5. Yet another point that arises is as to what is to happen regarding his arrears of salary from December 20, 1967 and for the post-writ-petition period. We make it clear that while seniority is being notionally extended to him from 1.1.1959, the appellant will not be entitled to any salary qua traffic inspector prior to 20th December, 1967. However, he will be entitled to salary on the terms indicated above from 20th December, 1967 as traffic inspector. That is to say, he will be eligible to draw the difference between what he has drawn and what he will be entitled to on the basis we have earlier indicated in this judgment.
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> 6. The appellant has a future and hopefully looks forward for promotion. It is, in our view, right and reasonable that for purposes of promotion, seniority will be reckoned from 20th December, 1967 but for qualifying period, if there is such a condition for promotion, his notional service from 1st January, 1959 will be considered. Of course, we need hardly say that this order will not affect adversely the seniority of those who have been appointed as traffice inspectors prior to 20th December, 1967. In the situation arising in the case, the respondent will pay the costs of the appellant in this Court. The appeal is allowed on the above lines."

In other words, the expression 'Notional Seniority' is used only for determining the date with effect from which presumptive pay should be fixed. It did not give him the benefit of seniority. But, by the order of the Court, it was held that the service rendered from the dates of notional seniority should also be treated as service rendered while considering his case for further promotion.

77. The other case is S.K. Saha vs. Prem Prakash Aggarwal, 1994(1) SCC 431. The appellant was appointed on 4.1.1957 as a Foreman which was a non-gazetted post. The post of Foreman was subsequently declared to be a gazetted post with effect from 16.1.1959. A regular recruitment was initiated and the applicant was appointed on 12.5.1960. Para 8 of this judgement which explains the facts of the case also lays down the principle as to how notional seniority can be counted. That para reads as follows :

> "8. There cannot be any dispute that the appointment of the appellant, according to rules, was made on basis of the recommendation of the Commission on May 12, 1960. In this background, there was no occasion to take into consideration the

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> period when the appellant was continuing on ad hoc basis, especially, during the period when the post itself was a non-gazetted post. The appellant was given seniority w.e.f. January 4, 1957, but the post of the Foreman which the appellant was holding itself became a gazetted post since January 16, 1959. Any officiation on the post when it was a non-gazetted post cannot be held to be a continuous officiation on the post so as to entitle the appellant to count that period towards his continuous officiation. The High Court has rightly held that while appointing him on the basis of the recommendation of the Commission, the date of appointment could not have been ante-dated and made to be effective w.e.f. January 4, 1957. This Court has repeatedly struck down and decried any attempt on the part of the appointing authority to give a notional seniority from a retrospective date, especially, when this process affects the seniority of those who have already entered into the service. In the present case respondent 1 had been appointed as Assistant Director of Industries on February 18, 1959 on the basis of an advertisement made in the year 1958 and on the recommendation of the Commission. His seniority in the service could not have been affected by the State Government, by giving notional date of appointment of the appellant w.e.f. January 4, 1957." (emphasis added)

Therefore, higher notional seniority cannot be given to the detriment of others who have been actually promoted earlier.

78. The other judgement of the Supreme Court which contains observations on notional seniority is Gangadhar Kar vs. Durgacharan Panda and Ors. 1995 (30) ATC 549. That was a case where the issue of seniority arose from the retrospective promotion of the appellant. The Court has held as follows:-

> "..This view of the High Courts seems to be unassailable for the reason that once the first respondent was granted pro forma promotion retrospectivly his seniority had to be fixed from the date on which he was granted such promotion. It is nobody's case that any condition was imposed in regard to seniority while permitting him to repatriate to the cadre of Laboratory Assistant nor is

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it anybody's case that the decision of the Government to grant him promotion retrospectively was qualified by a condition that he will not be entitled to seniority. If he was granted retrospective promotion without any qualification whatsoever the High Court is right that his seniority must be determined on the basis as if he had continued in his parent department retaining his original seniority".

This implies that it is not always necessary that retrospective promotion should also be accompanied by retrospective seniority. A condition could be laid down as to what limited benefits would accrue in respect of retrospective promotion. One could deny the benefit of retrospective seniority in suitable cases.

It will be seen that such clarification has been given by the M.P. High Court in the extract reproduced in para 11 supra. Such a clarification was given respectively by the Jabalpur Bench and the Calcutta Benches in M.A 24/89 - S.B. Chakravorty's case referred to in paras 15 to 17 and in O.A. 282/89 Bimal Biran Chakravorty's case referred to in para 37.

79. The other is about the possibilities of reversion on the implementation of this order and what principle should be followed.

This was recently examined in the order dated 28.9.95 disposing of OA-695/93 Chatter Singh and others vs. Union of India and two other OAs to which one of us (Shri N.V. Krishnan) was a party. It was held in para 34 therein as under:-

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"34. We, however, note that in the directions given in Gaba's case, there is nothing which forbids reversion, if required to be ordered. In our view, there will be no need for reversion if the only problem is to give a person, who has already been promoted to a higher post, that promotion from an earlier date. For example, a LDC 'X' has already been promoted as a UDC from 1.1.92. He has now been given a higher seniority as LDC by orders of a Court. He is, therefore, entitled to be considered for promotion from 1.1.87. If he is found fit for promotion from 1.1.187, there is no alternative to creation of a supernumerary post of UDC from 1.1.87 to 31.12.91, unless a vacant post exists to accommodate him. But there can be no question of reverting any one of the UDCs actually promoted on 1.1.187 on the ground that it was the turn of 'X' to be promoted then, because such a retrospective reversion would be bad in law. On the contrary, if 'X' continues to be a LDC at present and on the basis of the revised seniority it is found that he should have been considered for promotion as UDC from 1.1.87, a problem of reversion could arise. Necessarily 'X' has to be promoted as UDC from 1.1.87 for which a supernumerary post has to be created if he cannot be adjusted against existing vacancy. But none can insist that, for his continuing as UDC in the present, that supernumerary post should continue. If by such promotion of 'X' the total number of UDCs exceeds the sanctioned strength by one, the respondents would surely be entitled to revert the juniormost UDC and create a vacancy to accommodate 'X' as a UDC. In other words, the need for reversion can possibly arise only if (i) the employee is not holding at present the post for appointment to which he is found to be eligible from a retrospective date and (ii) the cadre is already full and he cannot be accommodated. Reversion will be of the juniormost person holding that post at present and not of the person who was actually promoted in the past in place of the person now found to be entitled to promotion then. Needless to say, in appropriate cases, Courts have given directions that even in such cases reversion need not be made."

That observation mutatis mutandis shall apply in respect of reversions if needed.

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80. To summarise, in our view, the various categories of Chargeman should be placed in the following order which will represent their inter-se-seniority.

(i) The first lot of persons would be those who have been regularly appointed or promoted as Chargeman Grade-II before 1.1.1973.

(ii) We declare that 50% of the Senior Draftsmen, in whose case the pay scales were revised and who have been given seniority from 1.1.1973 as a result of the judgement of the M.P. High Court, should be placed next in the seniority list as on 1.1.1973. They will be placed enbloc below the persons referred to at (i) above as also those persons who have been regularly appointed as Chargeman-II on 1.1.1973, in accordance with the recruitment rules then in force, either on the basis of promotion or on the basis of direct recruitment.

(iii) Next to them in the seniority list would be the category of Chargeman Grade-II who have been regularly appointed after 1.1.1973 and upto 1.1.80 either by way of promotion or

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by way of direct recruitment, in accordance with the recruitment rules.

iv) This would be followed by the Supervisors 'A' and allied categories and the remaining 50% of the Sr. Draftsmen who had not been given the pay scale of Rs.425-700 from 1.1.1973. The inter-se-seniority of the persons comprising this group, namely, the Supervisors 'A' etc. etc. and Senior Draftsmen will be decided on the basis of the seniority which existed between them immediately prior to 1.1.1980.

v) No group of Superviosr 'A' is entitled to an earlier date of promotion as Chargeman Grade-II merely because of the Ordnance Factory's circular dated 6.11.1962, after that circular was notified on 26.1.66.

vi) We declare that, in the light of the judgement of the Supreme Court in K.K.M. Nair's case (1993)(2) SCALE 469)no benefit of higher seniority can be given to the petitioners Virender Kumar and Ors. in AIR 1981 SC 1775, the petitioners in the

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batch of Misc. Petitions 174/81 and five others decided by the M.P. High COurt on 4.4.1983, the applicants in TA No.322/86 and TA No.104/86 (B.H. Ananta Moorthy's case and Ravinder Gupta's case). Accordingly, all these persons will count their seniority as Chargeman Grade-II only from the dates on which they were actually promoted in accordance with the recruitment rules.

vii) We further declare that the orders of Government quashing the seniority list dated 27.7.89, issued as a consequence of the judgement in Palurus case (AIR 1990 SC 1775), (Para 12 refers) (Annexure A-8 of Mannulal's case, O.A. 2591/1994) are valid in the light of the above judgement.

viii) As a result of the above orders/declarations about the manner in which the seniority of Chargemen-II commencing from 1.1.1973 to 1.1.1980 should be fixed, it would be necessary to review the promotions made to the higher grades. This would be done yearwise for all categories. We make it clear that if it is found

that any person was promoted in the past who was not due for such promotion, no action can be taken by the Government to make any recovery from him because he had already worked on a higher post of promotion on the basis of validly issued orders of promotion. In so far as the reversion is concerned, the principles have been stated in para 79 supra.

ix) There are other orders which revised the pay scales of draftsman and senior draftsman. We are not concerned whether the benefit thereof has been given to the three categories of senior draftsman viz.,(i) those who have been treated as Chargemen-II from 1.1.1973 (ii) those who have been merged in the category of Chargemen II from 1.1.1980 and (iii) those appointed as such after 1.1.80, if any. To forestall further complications, we declare that merely because they have become entitled to any pay scale higher than Rs.425-700 will not, ipso facto, mean that they are equivalent to any category of post higher than Chargeman-II and they cannot claim any benefit based on that higher pay scale.

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81. We now take up the disposal of the OAs referred to the Full Bench by the Jabalpur Bench of the Tribunal in its order dated 12.8.93 as well as the other OAs which have been referred to us by the Hon'ble Chairman. We shall first take up the four OAs referred to us by the Jabalpur Bench.

i) OA No.91/93 (Jabalpur Bench) (A.K. Mukhopadhyay & 4 others vs. General Manager, Grey Iron Foundary, Jabalpur and 2 others) renumbered as OA No.2601/94 (PB); and

ii) OA No.293/93 (Jabalpur Bench) (U.D. Rai & Ors. vs. U.O.I. & Ors.) renumbered as OA No.2598/94 (PB)

These are cases of directly recruited Chargeman Grade II aggrieved by the seniority given to Supervisor 'A' from 1.1.1973. Accordingly, in the seniority list, their place will be in accordance with sub-para (iii) of para 80 (supra). They would be entitled to all consequential benefits on that basis.

iii) OA No.275/93 (Jabalpur Bench) (Mannu Lal and 14 others vs. U.O.I. & Anr.) renumbered as OA No.2591/94 (PB).

This relates to the claim for accelerated promotion on the basis of the circular dated 6.11.1962. Accordingly, they are not entitled to any relief in terms of the declaration in sub-para (vi) of

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para 80 (supra). The applicants will count their seniority as Chargeman Grade II only from the date on which they were initially promoted in accordance with the rules.

iv) <u>OA No.276/93 (Jabalpur Bench) K.D. Roy and another Vs. U.O.I. & others) renumbered as OA No.2597/94 (PB).</u>

This is somewhat different from the cases mentioned above. This case is similar to OA No.350/93 (Jabalpur Bench) (H.S. Ramamoorthy & Anr. vs. U.O.I. & Ors.) referred to in the referral order dated 12.8.1993 of the Jabalpur Bench. That OA has already been disposed of by the Full Bench sitting at Jabalpur by the judgement dated 16.12.1994 (page 179). The orders of promotion of the applicants to the post of Foreman (i.e. Annexure A-4 and Annexure A-5) are based on the seniority list of 24.7.1987 (Annexure A-6). Therefore, they ought not to have been affected by the order of the Calcutta Bench of the Tribunal dated 30.12.1991 in OA No.99/91 (Sudhir Kumar Mukherjee & Ors. vs. U.O.I. & Ors.) which is based on the fact that the seniority list dated 27.7.1989 has been cancelled by Government. It is in similar circumstances that the Full Bench which decided OA No.350/93 (Jabalpur Bench) had modified the first sentence of para 6 of the judgement in that case to read as follows by adding the emphasized portion, at the end of the sentence so as to restrict its operation:

"Accordingly we allow this application by quashing the promotion orders dated 31.7.89 and 29.9.89 so far as they relate to the private respondents in the case."

This matter was not argued before us. As a similar matter has already been disposed of by the Full Bench in OA-350/93, we direct that this OA be placed before the Division Bench, along with a copy of the judgement of the Full Bench in OA No.350/93 of the Jabalpur Bench (page 179).

82. We now deal with the cases listed before this Full Bench by the Hon'ble Chairman.

83. The following OAs are cases of directly recruited or regularly promoted Chargeman Grade II and are similar to the case of Mukhopadhyay referred to in para 80 (i & ii) above. Accordingly, in these cases the seniority of the applicants as Chargeman II will be in accordance with sub-para (iii) of para 80 (supra):

1. OA No.2592/94 (PB) = OA 648/94 (Jabalpur) U.K. Mukherjee Vs. U.O.I. & Anr.

2. OA No.2593/94 (PB) = OA 427/94 (Jabalpur) Chet Ram Verma & Anr. vs. U.O.I. & Ors.

3. OA No.2594/94 (PB) = OA-812/93 (Jabalpur) Tapan Kumar Chatterjee & Ors. vs. U.O.I. & Ors.

4. OA No.2599/94 (PB) = OA 245/94 (Jabalpur) G. Sukesan & Anr. Vs. U.O.I. & Ors.

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5. OA No.2600/94 (PB) = OA 290/94 (Jabalpur) Somnath Basak & Ors. vs. U.O.I. & Ors.

6. OA No.76/95 (PB) = OA-936/93 (Calcutta) Parbir Kumar Majumdar vs. U.O.I. & Ors.

7. OA No.77/95 (PB) = OA 681/94 (Calcutta) Anutosh Baishya vs. U.O.I. & Anr.

8. OA No.79/95 (PB) = OA 682/94 (Calcutta) Ashutosh Bhattacharya & Ors. Vs. U.O.I. & Ors.

9. OA-1411/95 (PB) = OA 222/95 (Bombay) Abhilash Basak Vs. U.O.I. & Ors.

10. OA No.854/95 (PB) Asit Kumar Hazra vs. U.O.I. & Ors.

11. OA No.855/95 (PB) Subhash Chandra & Ors. Vs. U.O.I. & Ors.

They would be entitled to all consequential benefits on that basis.

84. The following cases concern the seniority of Senior Draftsmen, whose claim for seniority as Chargeman Grade II with effect from 1.1.1973, has been allowed by us. Accordingly, their seniority as Chargeman II will be fixed in terms of sub para (ii) of para 80 (supra). They will be entitled to consequential benefits in terms of those directions:

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1. OA No.398/91 (PB) Asit Kumar Sreemany and others vs. U.O.I. & Ors.

2. OA No.2671/92 (PB) = OA 526/89 (Hyderabad) R.K. Chattaraj Vs. Chairman, Ordnance Factory & Anr.

3. OA No.2151/93 (PB) S.K. Roy & Ors. Vs. U.O.I. & Ors.

85. The following cases are of applicants who have claimed accelerated promotion based on the circular dated 6.11.1962. These cases are similar to that of Mannu Lal & Ors. referred to at para 81 (iii). Accordingly, all these applicants will count their seniority as Chargeman Grade II only from the date of their regular appointment in accordance with the rules as mentioned in sub-para (vi) of para 80 (supra):

1. OA 2589/94 (PB) = OA 213/87 (Jabalpur) C.D. Lokhande and Ors. vs. U.O.I. & Ors.

2. OA 61/95 (PB) = OA 1237/93 (Bombay) B.M. Chaturvedi vs. U.O.I. & Ors.

3. OA 63/95 (PB) = OA 170/94 (Bombay) S.C. Sarkar vs. U.O.I.

4. OA 64/95 (PB) = OA 152/94 (Bombay) Virendera Kumar & Ors. vs. U.O.I. & Ors.

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5. OA 82/95 (PB) = OA 496/95 (Allahabad) S.C. Arora & Anr. vs. U.O.I. & Ors.

6. OA 86/95 (PB) = OA 952/94 (Allahabad) Surjeet Lal Kapoor vs. U.O.I. & Ors.

86. The following cases are filed by Supervisors 'A'. These are for claiming seniority as Chargeman from 1.1.1973 along with consequential benefits. We have held that they can be treated as Chargeman only from 1.1.1980. Accordingly, their seniority as Chargeman Grade II would be in accordance with sub para (iv) of para 80 (supra):

1. OA 2596/94 (PB) = OA 856/93 (Jabalpur) S.K. Narain and Ors. vs. U.O.I. & Ors.

2. OA 14/95 (PB) = OA 246/94 (Hyderabad) T.Satyanarayana Vs. U.O.I. & Ors.

3. OA 15/95 (PB) = OA 364/94 (Hyderabad) S.Gangadharappa vs. U.O.I. & Ors.

4. OA 80/95 (PB) = OA 1382/93 (Calcutta) Mihir Kumar Chatterji vs. U.O.I. & Ors. @@

87. As mentioned above, on scrutiny, we found that some of the cases referred by the Hon'ble Chairman to this Full Bench for disposal along with the cases referred by the Jabalpur Bench do not really pertain to Full Bench matters under our consideration. These are disposed of as follows:-

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(i) OA No.2602/94 (PB) = TA 23/87
(Jabalpur)
Haridas Singh Kanwara Vs. U.O.I.

This was a civil suit in the Court of VIIth Civil Judge, Class-II Jabalpur. As seen from the plaint, the grievance of the plaintiff is that his name was excluded from the list of Assistant Foreman (Mechanical) prepared on 11.12.1979 on the basis of the DPC recommendations. Obviously, this is a case of simple promotion. Accordingly, we direct that this OA be placed before the Division Bench for expeditious disposal as this is a Transferred Application of 1987.

(ii) OA No.78/95 (PB) = OA 1167/92
(Calcutta)
Pranab Kumar Roy & Ors. vs. U.O.I.

The applicants were initially appointed under the Director General of Inspection. Thereafter, on 20.11.1983, a decision was taken to transfer them to the jurisdiction of the Direcdtor General of Ordnance Factories. Their claim is that thereafter their seniority has not been properly fixed. This is similar to OA 350/93 referred to the Full Bench by the Jabalpur Bench in which a decision has already been rendered on 12.8.1993 as mentioned in sub para (iv) of para 80 (supra). For the reasons mentioned therein, this matter may also be placed before a Division Bench along with a copy of the judgement dated 12.8.1993 of the Full Bench referred to above.

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(iii) OA No.81/95 (PB) = OA 229/94 (Jabalpur)
D. Pal & Ors. vs. U.O.I.

The grievance in this case is similar to OA No.276/93 of the Jabalpur Bench referred to in sub para (iv) para 80 (supra). The claim of the applicants is that there was no case of reverting them on the basis of the judgement of the Jabalpur Bench in OA NO.99/91 (Sudhir Kumar Mukhopadhyaya vs.U.O.I.) because they are Chemical Engineers and the judgement of the Jabalpur Bench refers to Mechanical Engineers. This also can be considered by a Division Bench before whom the case shall be placed along with a copy of the judgement of the Full Bench in OA No.350/93 of the Jabalpur Bench (page 179) referred to earlier.

(iv) OA 172/95 (PB) = OA 235/94 (Madras)
A.S.R. Krishnamoorthy & Ors. vs.
U.O.I. & Ors.

The grievance of the applicants is totally different from the issues considered by the Full Bench. Their grievance is that persons appointed subsequent to them to do the same work of Russian translation have been promoted while they have not been promoted. This is a matter unrelated to the issues considered by us and, therefore, we direct that this OA be placed before a Division Bench for disposal according to law.

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88. Next we come to a group of six cases about which there is a dispute as to whether they concern the issues referred to this Full Bench or not. We have scrutinised the cases and we found that excepting for one case (OA No.2595/94 (PB) = OA No.19/91 - A.N. Mukherjee Vs. U.O.I. & Ors.) the remaining 5 cases have been rightly referred to the Full Bench. Those 5 cases are disposed of as follows:

(i) OA No.2669/92 (PB) = OA 720-CH/88 (Chandigarh)
Kirpal Singh Vs. U.O.I. & Ors.

(ii) OA No.2670/92 (PB) = OA 920/88 (Allahabad)
S.C. Sabharwal & Ors. Vs. U.O.I. & Ors.

Both these OAs concern claims made by Senior Draftsmen against the seniority granted to them as Chargeman II from 1.1.1973 being sought to be disturbed by placing above them Supervisor 'A' and allied categories who have also been declared to be Chargeman II from the same date. The Senior Draftsmen in these two OAs are entitled to the benefit of the declaration in sub-para (ii) of para 80 in case they belong to the 50% of the Senior Draftsmen who are given seniority from 1.1.1973 consequent upon the decision of the Madhya Pradesh High Court. In case they belong to the left out category of Senior Draftsmen, they will be entitled to the benefit of

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para (iv) of para 80. The respondents are directed to examine the issues from this angle and pass necessary orders.

(iii) OA No.2590/94 = OA 442/93 (Jabalpur)
Samar Kanti Ghosh vs. U.O.I. & Ors.

The applicant is directly recruited Chargeman Grade II. His claim is similar to that of Mukhopadhyay & Ors. referred to in para 43. His seniority will be in accordance with sub para (iii) of para 80 (supra).

(iv) OA 83/95 (PB) = OA 875/93 (Allahabad)
M.P. Singh & Ors. vs. U.O.I. & Ors.

(v) OA 84/95 (PB) = OA 197/94 (Allahabad)
Hans Raj Taneja & Ors. vs. U.O.I. & Ors.

The applicants in these OAs seek the benefit of earlier promotion as Chargeman on the basis of the circular dated 6.11.1962 of the Director General of Ordnance Factories. Therefore, their claims are similar to that of Mannu Lal and others (OA No.275/93 of Jabalpur Bench and renumbered as OA No.2591/94 (PB) referred to in para 14 above. As held in sub paras (v) and (vi) of para 80 supra, they are not entitled to any earlier promotion. They will count their seniority as Chargeman II only from the dates they were actually promoted in accordance with the Recruitment Rules.

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89. We now come to the last group, namely, those cases which, undisputedly, have to be remitted to the Division Bench for disposal according to law. There are five cases in this group as per particulars given below:

(1) OA No.292/90 K.B. Mehta vs. U.O.I. & Ors.

(2) OA No.294/90 R.H. Singh vs. U.O.I. & Ors.

(3) OA No.326/90 D.N. Trivedi vs. U.O.I. & Ors.

(4) OA No.2588/94 (PB) = OA 379/87 (Jabalpur) Rajkumar Ramkishore Pashine & Ors. vs. U.O.I. & Ors.

(5) OA No.85/95 (PB) = OA 1029/94 (Allahabad) Devinder Pal Gupta vs. U.O.I. & Ors.

90. To this group should also be added OAs No.2595/94 (PB) = OA No.19/91 (Jabalpur) (A.N. Mukherjee vs. U.O.I. & Ors.) of the list of disputed cases referred to in para 88. We direct that these cases be placed before a Division Bench for disposal in accordance with law. However, a copy of para 80 our order should be placed with the record of ea case so that the Division Bench could consult the directions for such use as it thinks fit.

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91. We have thus given our general conclusions in para 80 (supra) and we have given our directions in regard to the 43 cases which have been referred to us in paras 81 to 90. The original of this order shall be placed in OA-2601/94 (PB) A.K. Mukhopadhyay & 4 others vs. General Manager, Grey Iron Foundary, Jabalpur and 2 others) formerly OA No.91/93 of Jabalpur Bench. Copies duly authenticated by the Registry may be placed in all the other OAs disposed of as a Full Bench case. Where the OA has been remanded to the Division Bench an extract of para 80 supra should be placed in each case as also any other document directed to be sent along with that judgement. The Chairman and Director General, Ordnance Factory Board, Calcutta is directed to notify as a Factory Order a copy of our order from para 51 onwards for general information.

92. We notice that certain interi directions have been given by the various Benches in some of the cases before us. The individual cases were not argued before us. We are, therefore, not in a position to pass any further orders in this regard. However, the interm orders will naturally abide by the final orders passed by us. In order to ensure tha there is no ambiguity about this matter, it is open to either party to seek further directions from the appropriate Benc in each individual case about the interim order alrea passed. If for this purpose the parties feel that would be more convenient that the OA may transferred to the Bench, where it was origina filed, it is open to seek the orders of the Hon' Chairman.

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93. We place on record the valuable assistance rendered by the counsel who appeared before us.

22.12.97

(Smt. Lakshmi Swaminathan)
Member(J)

(A.V. Haridasan)
Vice-Chairman(J)

(N.V. Krishnan)
Acting Chairman

'Sanju'