

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1698/94

New Delhi this the 25 Day of May 1998
Hon'ble Shri Justice K.M. Agarwal, Chairman
Hon'ble Shri R.K. Ahooja, Member (A)

(36)

1. Bala Ram, S/o Shri Gagan
2. Mohinder Singh S/o Pratap Singh
3. Mahabir Singh S/o Shri Balak Ram
4. Krishna Kumar S/o Shri Purna Chand
5. Suresh Chandra S/o Shri Govind Ram
6. Laxmi Narayan, S/o Shri Bhana
7. Pratap Singh, S/o Shri Nain Singh
8. Deep Chandra S/o Shri Amar Singh
9. Balbir Singh, S/o Shri Harinarain
10. Mohan Lal, S/o Shri Shankar Dayal
11. Atar Singh, S/o Shri Ram Lal
12. Ram Lal Sah, S/o Shri Shamandi Sah,
13. Bir Pal S/o Shri Pyare Singh
14. Koyar Singh Rawat S/o Shri Kaira Singh.
15. Gautam Prasad S/o Shri Suraj Prasad
16. Suresh S/o Shri Chandgi Ram
17. Madan Mohan Joshi S/o Shri J.C. Joshi
18. Krishna S/o Shri Ganeshi
19. Harikishan S/o Shri Swarup Chandra
20. Abhay Singh S/o Swarup Chandra
21. Vijay Pal Singh S/o Shri Prithi Singh
22. Phool Singh S/o Shri Jille Singh
23. Mohendra Singh, S/o Shri Rishal Singh
24. Rajendra Singh S/o Shri Bhagwan Singh
25. Dilbagh Singh S/o Hukum Singh
26. Rajendra Singh S/o Shri Sitab Singh
27. Rameneyar S/o Shri Bujan Ram
28. Satyapal Singh, S/o Shri Ram Singh
29. Sitab Singh, S/o Shri Kripal Singh
30. Ranvir Singh S/o Shri Tek Ram
31. Dalvir Singh S/o Shri Fajita Singh
32. D.M. Sharma S/o Shri Chander Deo Sharma

All are working as Matge Packer in Central Ordnance
Depot, Delhi Cantt & are

R/o H.No. 207-C/1
Palam Colony, Sadh Nagar,
New Delhi.

Petitioners

(By Advocate: Shri V.P. Sharma)

-Versus-

1. Union of India
Through the Secretary,
Ministry of Defence, Govt. of India,
New Delhi.
2. The Director General,
Directorate of Ordnance Depot,
Army Headquarters, Sena Bhawan,
New Delhi.

3. The Commandant
 Central Ordnance Depot,
 Delhi Cantt.
 (By Shri S.Mohd. Arif, Advocate)
 ORDER

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Hon'ble Shri R.K. Ahooja, Member (A)

The grievance of the applicants is that on being initially appointed as labourers in Central Ordnance, Depot. they appeared in a Trade Test in the year 1987 for appointment as Mate Packer in the pay scale of Rs. 800-1150 per month. Only 129 persons including the applicants could pass this Test and their names were notified vide Pt-I Order No. 1156 dated 27.4.1988. Of them the first 67 persons were promoted as Mate Packers in May 1990. A further test was also conducted among these 67 Mate Packeres for promotion to the post of Packer Grade in the pay scale of Rs. 950-1500 and 17 Mate Packers were promoted vide order dated 21.5.1994. Some of the seniors of the applicants in that list were also promoted in other trades such as Bench Fitters, Marker Electrician, Carpenter and Painter etc. Thereafter the remaining 37 persons of select list i.e. the applicants were promoted and appointed as Mate Packers in the pay scale of Rs. 800-1150 p.m. vide order dated 8.9. 1993. Their grievance is that they are now the only persons left who have not been promoted in the grade of Rs. 950-1500 p.m. The controversy has arisen because an Award on 1.11.1985 was given that all Mazdoors in packing section of Ordnance Depots who were on actual packing work and are executing the packing work assigned to them be given pay scale of Rs. 800-1150. Applicants say that the respondent No. 3 invited options from all the

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Mazdoors working in the Ordnance Depots irrespect of the fact whethere any one was working in the packing division or not for option to avail of the Award dated 1.11.1985. As a result the applicants have been deprived of the opportunity for promotion as they have been made junior to the beneficiaries of the Award.

2. The respondents in their reply have stated that after the Award of Hon'ble Shri Justice M.L. Jain instructions, the total number of vacancies of Mate Packers were increased from existing 50 to 338. The applicants, however, being low in the seniority list could not be considered for promotion.

3. We have heard the counsel on either side. The learned counsel for the applicants, Shri V.P. Sharma, argued that the applicants had a vested right to promotion after passing the Trade Test and being thereafter empanelled for promotion. He submitted that when the Trade Test was held all those who had rendered three years service were allowed to compete and those who did not thereafter pass the Test had no right to supersede the applicants. We find however that what the applicant achieved through passing the Trade Test, the other Mazdoors obtained through Justice Jain's Award. Once that happened the distinction could not be drawn between the two categories on the basis of the mode of their elevation as Mate Packers. It is to be noted that the applicants did not challenge the grant of grade of Mate Packers to other Mazdoors. Once the grade was given to all casual mazdoors then their inter

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se seniority has to be with reference to their (4)
appointment in that grade. However, further promotion
have to be in accordance with the recruitment rules, if
any. Thus if passing the Trade Test is a pre requisite
qualification for being promoted as Packers those who
pass such a test necessarily have a superior claim over
those who fail to do so. It has been held by Union of
India Vs. S.L. Dutta and another JT 1990 (4) SC 741
that a mere chance of promotion is not a condition of
service and the fact that there is a reduction in the
chance of promotion would not amount to a change in the
condition of service. It has also been held by Supreme
Court in R.S. Makashi and Others Vs. I.M. Menon and
Others 1982(1) SCC 379 that a just and wholesome
principle commonly applied to persons coming from and
drafted to serve a new service to count their pre
existing service for determining their ranking in the
new service. Therefore, in the cadre of Mate Packers,
the inter se seniority will be on the basis of pre
existing length of service in the category of Mazdoor.
Further promotions, however, will be subject to
recruitment rules, if any.

4. In the result the OA is dismissed. No Order
as to costs.

JK
(K. M. Agarwal)
Chairman

R. K. Ahuja
(R. K. Ahuja)
Member (A)

Mittal