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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2170/89

DATE OF DECISION 25.10.1991.

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| Shri Balbir Singh Chauhan & Ors | - | Applicants. |
| Shri V.P. Sharma | - | Advocate for the Applicants. |
| Versus | | |
| Union of India & Ors | - | Respondents |
| Shri M.L. Verma | - | Advocate for the Respondents. |

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The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(3)

The Hon'ble Mr. B.N. DHUNDIYAL, MEMBER(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*

JUDGEMENT

(OF THE BENCH DELIVERED BY SHRI B.N. DHUNDIYAL, HON'BLE MEMBER(A)).

This OA has been filed by S/Shri Balbir Singh Chauhan and Raj Pal Singh under Section 19 of the Administrative Tribunal Act, 1985, challenging the action of the respondents of deleting their names from the select list for appointment to the post of Supervisor (Tech.) in Inspectorate of Armaments, Ministry of Defence and praying for directing the respondents to absorb them as Chargeman II with all consequential benefits.

2. The facts of the case, in brief are, as follows:

The applicants appeared in a written test and interview for the post of Supervisor(Tech) on 28.2.85 and *they* were duly selected. They also underwent Medical examination successfully. Their names were struck off from the live register of the Employment Exchange. They have stated that they were told that there was ban on new appointment at that time and that when the ban was lifted, they would be given appointment letters. This ban on making fresh appointment was lifted in June 1987 and while the other establishment of the Respondents at Kanpur, Calcutta, Jabalpur and Madras made the fresh appointments, no such opportunity was given to the *bw* applicants.

They further contend that the 4th Pay Commission merged two posts namely Supervisors Grade III and Chargeman Grade. II into one and the name of these two posts ^{was by} re-designated as Chargeman-II. The duties and the nature of work remained the same and the selected candidates should have been given appointments particularly in view of the fact that their names were also removed from the live register of Employment Exchange on intimation regarding their selection being given by the respondents.

3. The only change that has taken place after the implementation of the recommendations of the Pay Commission was the merger of the post of Supervisor Grade-III with the post of Chargeman Grade-II and redesignation of the new post as Chargeman-II. Selection for the redesignated post is being done by the working circles and not by the Head Quarters as in case of Supervisors earlier. They have relied upon the notification dated 8.2.82 issued by the Deptt. of Personnel, which provides that all candidates from the select list shall be given appointment before fresh recruitment takes place.

4. The respondents have admitted the above facts but have contended that the courts may not like to interfere with the revised staff pattern created for administrative efficiency as held in a number of cases. The cases of the applicants were taken up with the Controller of Quality Assurance(Administration) Kirkee after lifting of the ban who advised that the post of Supervisor Grade-III had been abolished and no appointment letters can be issued to the selected persons. They have however mentioned that there were at the time 3 vacancies in their establishment and that the post of Chargeman Grade-II is a selection post and has to be filled up centrally.

Cases relied upon by the respondents:

- (1) Subash Chand Khetarpal Vs. U.O.I.
1988(6)ATC 530(CAT)
- (2) M. Subramanian Vs. G.M. Southern Rly.
1988(1)SLR(Mad) 143
- (3) K.Rajanav Vs. State of Tamil Nadu
AIR 1982 SC-1107.

5. We have gone through the records of the case and heard the learned counsel for both the parties. The respondents have not denied that similarly selected candidates by other units were allowed to join. It appears that only the Delhi establishment, who selected the applicants, made a reference to the Head Quarters. The applicants have, therefore, a right to be treated at par with their similarly situated colleagues, who have been given appointments in other units. Apart from the fact that Chargeman Grade-II are selected centrally, no change in duties or qualification seems to have been introduced. This being so, the provisions of Deptt. of Pers. & Trng. notification dated 8.2.82 will apply according to which once a person is declared successful according to the merit list of selected candidates, which is based on the declared number of vacancies, the appointing authority has the responsibility to appoint them even if the number of vacancies undergoes a change. The position was confirmed by the Supreme Court in the case of Prem Prakash Vs. U.O.I. (AIR 1984 SC 1831), wherein it was observed that there should be no limit on the period of validity of the list of selected candidates prepared to the extent of declared vacancies. This view was reiterated by this Tribunal in O.A No.363/87 decided on 30.10.89 in case of Smt. Nirmala Kumari and Another Vs. Delhi Administration and Another.

6. We, therefore, hold that denial of appointment of the applicants is not legally sustainable as it amounts to violation of Article 14 and 16 of the Constitution. They should be treated at par with their colleagues who had been appointed by the other units as Supervisors (Tech.). We, therefore, allow the application and dispose it of with the direction that the applicants shall be given appointment as Supervisor (Tech.) against the vacancies existing at the time of their selection and shall be adjusted against the redesignated post of Chargeman Grade-II

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like those who were appointed in the other units. Orders in this regard shall be issued within three months from the date of communication of this order.

7. In the facts and circumstances of the case, we do not direct payment of back wages to the applicants.

8. There will be no order as to costs.

B. N. DHOONIYAL
(B.N. DHOONIYAL) 25/10/91
Member (A)

Arrived
25/10/91
(P.K. KARTHA)
Vice-Chairman (J)