

THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO. 885/89

DATE OF DECISION: 30/4/90

SOHAN LAL

APPLICANT

R.L. SETHI

ADVOCATE FOR THE APPLICANTS

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

MRS. RAJ KUMARI CHOPRA

ADVOCATE FOR THE RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

J U D G E M E N T

(Delivered by the Hon'ble Mr. I.K. Rasgotra, Member (A))

This is an application filed by Shri Sohan Lal under Section 19 of the Administrative Tribunals Act, 1985 on 20.4.1989. The gravamen of the plaint of the applicant is that he was transferred without his consent from Director General Inspection (DGI), to the Muradnagar Factory under Director General Ordnance Factory (DGOF), and that this transfer has affected his promotional prospects adversely.

2. The applicant belongs to Scheduled Caste Community and was appointed to the post of Examiner on 28.1.1963 in the Inspectorate of Metals, Director General of Inspection,

Muradnagar. He was transferred to the Muradnagar Factory (DGOF) on 20th October, 1984 without obtaining his consent. Further 215 similarly placed employees were also transferred from DGI to DGOF, Muradnagar. However, 29 similarly placed persons were retained in the Inspectorate (DGI) without ensuring proper representation of the Scheduled Caste Community. Applicant made several representations to the respondents, seeking his reversion to the parent cadre in the DGI but the same was finally rejected vide order No. LB/455-II dated 6.12.1988 at Annexure A-1 (page 8 of the paper book). A further clarification in this regard was provided by the respondents vide letter dated 6th February, 1989 at Annexure-A-4 (page 11 of the paper book). While rejecting the representation the respondents gave three reasons:-

- (i) Transfer of personnel to the Ordnance Factory Board, Muradnagar was based on nature of work on which employed.
- (ii) Seniority
- (iii) Reservation quota was not kept in view while transferring personnel from DGI to DGOF, Muradnagar.

2.1 The respondents in their written reply have submitted that the Government had decided to transfer stage/inter-stage inspection responsibility from the DGI to the DGOF in respect of Ordnance Factories belonging to Ammunition group etc. w.e.f. 1.10.1984. Accordingly, 252 officers/technical/non-technical employees alongwith 270 posts were transferred from DGI, Muradnagar to Ordnance Factory, Muradnagar vide daily order Part-

II No.107 IE dated 20.10.1984. It has been affirmed that 29 employees engaged on final stage inspection alone were retained in DGI.

2.2. The transfers were ordered in accordance with the policy laid down by the Government and in consultation with the Staff Side of the Joint Consultative Machinery (JCM). It has been contended that the Scheduled Caste / Scheduled Tribe reservations are applicable only in case of recruitment and promotion and not in the case of transfers.

3. We heard the learned Counsel of both the parties when it was felt that the matter can be decided at the admission stage itself. The respondents were therefore directed to produce the relevant record regarding the policy followed to identify the personnel to be retained in the DGI, and the personnel to be transferred to the DGOF. These records were produced by the respondents on 17.4.1990. On perusal of the records furnished, we find that the basic principle observed in deciding the personnel to be transferred was "men on the job" as laid down in the Ministry of Defence letter No. S/710/RJ/VIII/DGI/Arm I dated March 1, 1984. The employees working on the stage/inter-stage inspection were, therefore, transferred to the Director General Ordnance Factory, while those working on final inspection were retained in the Director General, Inspection. Additionally, all those persons who were due to retire before 31st July, 1987 were also to be retained in the DGI. In addition some representations received from the individuals against the transfers were

12

considered by the Director General, Inspection and Director General Ordnance Factory jointly and a decision taken.

The grade-wise break up of the 29 employees retained in the DGI, Muradnagar reveal the following position:-

Examiners Selection Grade	- 6
Examiners Grade I	- 9
Examiner Grade II	- 6
Junior Examiners	- 8
Total:	29

The present matter relates to only examiners Grade II category to which the applicant belongs. The inter-se-seniority of the six personnel retained in the DGI and the applicant Shri Sohal Lal transferred to DGOF is given below:-

Sl. No.	Name	T.No.	Designation	Date of Retirement
S/Shri				
1.	Sant Lal, (SC)	T.No.203	Exam.Gr.II	31.9.1997
2.	K.S. Bhagat,	T.No.224	Exam.Gr.II	30.6.1999
3.	M.S. Tyagi	T.No.240	Exam.Gr.II	Expired (11.2.89)
4.	P.C. Jain	T.No.277	Exam.Gr.II	31.7.1998
5.	SGS Bhatnagar	T.No.282	Exam.Gr.II	30.6.2002
6.	A.K. Nanoo	T.No.195	Exam.Gr.II	30.6.1987 (Retired)
7.	Sohan Lal	T.No.271	Exam.Gr.II	30.4.2003

4. We have considered the rival contentions and the record before us carefully. We find that the transfers made were in accordance with the policy decision of the Government based on the Rajadhyaksha Committee's recommendations. Further no one junior to the applicant has been retained in the DGI. All the six persons who were retained in the parent organisation are senior to him. The applicant also did not object to his transfer in 1984 when the transfer orders were issued. Having regard to the facts of the case we do not find any merit in the application, the same is and accordingly dismissed.

There will be no orders as to the costs.

Delupti
(I.K. Rasgotra)
Member (A) 20/9/90

Oberoi 30.4.90
(T.S. Oberoi)
Member (J)