

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

D.A. NO. 1533/88

New Delhi this the 24th day of December, 1993

CORAM :

THE HON'BLE MR. JUSTICE B. C. SAKESNA, VICE CHAIRMAN
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

Sodhi Charanjiv Singh
Son of Sodhi Rajinder Singh,
Chargeman,
509 Army Base Workshop,
Agra.
C/O Mrs. S. Roy/S. Bhattacharya,
Advocates,
D-II/305, Vinay Market,
New Delhi - 110021.

... Applicant

None appeared for the Applicant

Versus

1. Union of India through
Secretary, Ministry of
Defence, South Block,
Central Secretariat,
New Delhi - 110001.
2. Director General EME,
EME Directorate,
Army Headquarters,
DHQ RO New Delhi-110001.
3. The Commandant,
Headquarters Technical Group EME,
Delhi Cantt. 110010.
4. The Commandant,
509 Army Base Workshop,
Agra 282001.

... Respondents

By Advocate Shri M. L. Verma

ORDER

Hon'ble Mr. Justice B. C. Saksena —

The applicant was working as a Turner at
509 Army Base Workshop, Agra. The post of Turner
is in the category of Industrial Personnel in the
scale of pay of Rs.260-400. Promotions from
Industrial Personnel (Turner) was to the non-gazetted
non-industrial personnel part II cadre of Chargemen

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in the scale of Rs.380-560/-.. The applicant by an order dated 13.09.1984 was promoted to the post of Chargeman w.e.f. 29.7.1984. On promotion, he was posted to 515 Army Base Workshop, Bangalore. He, however, made a representation for absorption in SITU because of medical problems of his wife. On consideration of his representation, orders for his absorption in SITU were issued on 28.12.1984. The applicant assumed duty as Chargeman w.e.f. 1.1.1985.

2. In the intervening period from 29.7.1984 to 1.1.1985 the applicant admittedly continued to work as Turner. During the said period under the provisions of Ministry of Defence letter dated 15.10.1984 a fresh fitment of industrial workers of EME was made in the pay scale recommended by the Third Central Pay Commission. The applicant's case was not considered and one Sardar Singh, junior to the applicant, was placed in the skilled grade of Industrial Personnel. The applicant, in these facts, has prayed for a direction that he be declared as entitled to the benefit of the 3 Grade Structure as Workman w.e.f. 15.10.1984 because he continued as Workman upto 31.12.1984. A further relief has been prayed for for fixation of his pay and grant of all consequential benefits. He has also sought that a direction be issued for re-fixation of his pay in the grade of Chargeman w.e.f. 1.1.1985 and that the same be taken as base for fixation of his pay in the revised pay scale of Chargeman w.e.f. 1.1.1986 with all benefits accruing accordingly. On behalf of the

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respondents, a reply has been filed and the applicant has also filed a rejoinder affidavit. It is not necessary to give in details the pleadings in the reply of the respondents, but the same will be considered while considering the submissions made by the learned counsel for the parties.

3. The learned counsel for the applicant urged that since the applicant admittedly continued to work as Turner till 31.12.1984, he was entitled to the same benefit of pay and allowances and promotion in the 3 Grade Structure of Industrial Personnel as given to his junior, Sardar Singh.

4. The learned counsel for the respondents urged that the applicant was promoted as Chargeman w.e.f. 29.7.1984. He was posted to 515 Army Base Workshop, Bangalore, but on the applicant's representation, the same was modified. As per the letter of posting, he was required to be on probation for a period of two years from the date of assumption of duty as Chargeman. It was also specifically provided that pay and allowances of the higher post would be admissible from the date of assumption of charge of duty as Chargeman. The respondents in their reply have indicated that the applicant's seniority on promotion within his respective trade group was taken to be as in the order of promotion, i.e., 29.7.1984. It was also urged that since the applicant did not join as Chargeman, he continued to work as Turner till 31.12.1984. The 3 Grade Structure posts were filled up w.e.f. 15.10.1984.

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Since the order of promotion of the applicant to the post of Chargeman had been issued w.e.f. 29.7.1984, much before the implementation of the 3 Grade Structure, the question of his fitment in the 3 Grade Structure during the period between 29.7.1984 and 1.1.1985 did not arise. We see force in the submission made by the learned counsel for the respondents. It was also pointed out as has been averred in the reply that the applicant did not refuse his promotion and consequently there was no reason to give him the benefit of the benefit of the 3 Grade Structure for Industrial Personnel.

5. The position with regard to Sardar Singh has been explained satisfactorily in the reply filed by the respondents. It has been indicated that Sardar Singh being eligible for promotion to highly skilled grade II was promoted w.e.f. 15.10.1984 and highly skilled grade I w.e.f. 15.10.1985. Thereafter, Sardar Singh was promoted as Chargeman (Part II Cadre) w.e.f. 24.6.1986. His pay was fixed at Rs.1480 per month w.e.f. 24.6.1986 whereas the applicant was promoted to Chargeman (Part II Cadre) from highly skilled grade of Turner w.e.f. 1.1.1985 and his pay was fixed w.e.f. 1.1.1985 at Rs.416/- in the pre-revised scale and subsequently at Rs.1400/- w.e.f. 1.1.1986. In these circumstances, it is explained that the pay of Sardar Singh would be fixed naturally at the higher rate than that of the applicant, because Sardar Singh was promoted as Chargeman from highly skilled grade I after getting two promotions, i.e., highly skilled grade II and

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grade I, whereas the applicant was promoted from highly skilled grade of Turner without getting any promotions. The explanation in the reply submitted by the respondents with regard to the fixation of pay of the applicant on the post of Chargeman and that of his junior, Sardar Singh, to our mind, is satisfactory. Merely because the applicant did not on his own volition assume charge of the post of Chargeman upto 1.1.1985 does not entitle him to be considered for promotion to the 3 Grade Structure of promotion to the Industrial Personnel. He ceased to be an industrial personnel on his promotion to the post of Chargeman. The date of his assuming charge is immaterial. He has been assigned seniority from the date of his promotion and in accordance with the clear stipulations in the order of promotion, he was to get the pay of the post of Chargeman from the date of his actual assumption of charge.

6. In the light of the discussion hereinabove, we are of the opinion that no case for grant of relief as prayed for is made out. This O.A. is accordingly dismissed. No costs.

Adige
(S. R. Adige)
Member (A)

Saksena
(B. C. Saksena)
Vice-Chairman (B)

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