

(18)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO. 578/86

DATE OF DECISION: 31.07.1992.

SH. BABOO RAM & ORS.

....

APPLICANTS

VERSUS

UNION OF INDIA through
Secy, Min. of Defence, A.H.Q,
New Delhi & Ors.

....

RESPONDENTS.

CORAM:

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

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

COUNSEL FOR THE APPLICANTS : SH. S.C. LUTHRA

COUNSEL FOR THE RESPONDENTS : None

1. Whether reporters of local papers may be allowed to see the Judgement?

2. To be referred to the Reporter or not?

Judgement(ORAL)

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

Shri Baboo Ram and 6 others, who are working as Highly Skilled Grade-II Carpenters in Central Ordnance Depot, Agra, have filed this application under Section 19 of the Administrative Tribunals Act, 1985, being aggrieved by the respondents' order dated 14.5.1986 purporting to revert them to the skilled category. The Tribunal stayed the impending reversion of the applicants vide order dated 4.9.1986. The applicants have prayed that the order of the respondents dated 14.5.86 purporting to revert them, be struck down to the extent it provides reversion of the applicants and recovery of the excess amount of the salary paid to them after reversion and that they may be declared to continue from the date of reversion to the Highly Skilled Grade-II with subsequent avenues of promotion.

2. We have heard the learned counsel for the applicant. None was present for the respondents. Being

an old matter and having been continued as part-heard, we have decided to peruse the record and proceed to dispose of the matter on merits.

2. The applicants were promoted as Highly Skilled Grade-II in the office of the respondents in pursuance of the Ministry of Defence letter dated 15.10.84, according to which, the skilled categories were distributed on a percentage basis, as under:-

(a)	Highly Skilled Grade-I	15%
(b)	Highly Skilled Grade-II	20%
(c)	Skilled Grade	65%

The percentage distribution provided increased number of Highly Skilled Grade posts and, therefore, those Skilled Grade workers, who have qualified in the Trade Test or had earlier qualified in the Trade test and were awaiting promotion or qualified in pursuance of the said letter of Ministry of Defence and had rendered minimum service of three years in the Skilled Grade were promoted to the extent, the Highly Skilled Grade posts became available. Accordingly, the applicants were promoted in accordance with the rules then prevailing. Subsequently, the Ministry of Defence vide their letter dated 8.4.86 reconsidered the matter in consultation with Indian National Defence Workers Federation and All India Defence Employees Federation and an agreed approach was arrived in the matter of promotion. According to this agreed approach, the promotions were to be regulated to the extent of 20% of the posts without making the candidates acquire qualification in the Trade test, on the basis of the seniority, as a one time relaxation. Accordingly, the Defence Ministry directed the lower formations to review the promotion of the applicants and if some individuals have to be reverted consequently to the skilled category, the same was to be done and over payments/excess payments


made were to be regularised as per normal rules. It is in this background that the applicants have approached this Tribunal and obtained the interim stay order on 4.9.86.


3. On a perusal of the counter-affidavit filed on behalf of the respondents, we find that the applicants were promoted on 15.10.84 except Shri Ram Lal, applicant No.7. They had qualified in the Trade test and had rendered three years' minimum service. These facts are not in dispute. We also observe that the respondents themselves had recommended to the Army Headquarters to continue the persons already promoted to the Highly Skilled Grade-II and pending order they did not carry out the reversions in pursuance of the Army Headquarters administrative instructions dated 15.10.84 which were binding in nature as they fall under ^{the purview} of Article 73 of the Constitution of India, till they are substituted/amended by the respondents. These instructions were amended/substituted only in May, 1986. This was possibly done with a view to give the benefit of promotion to the persons who were senior in the seniority list but who could not qualify ^{relevant} in the Trade test. Be that as it may, the position is that the applicants were promoted in accordance with the rules/administrative instructions, binding in nature, in 1984. They cannot be, therefore, reverted without justification and adequate reasons in 1986. The instructions issued in 1986 also cannot have retrospective effect to the prejudice of the applicants. In case the respondents on a later date considered it necessary, in consultation with the labour federations to give benefit to the senior employees by relaxing the recruitment rules, they could do so prospectively without causing any prejudice to the rights of the individuals, who had already been promoted

in accordance with the rules. Alternatively, they could create supernumerary posts to promote such senior employees as failed to qualify in the Trade tests. It is well established that any amendment to the rules would have prospective effect. The amendment cannot give benefit to the prejudice of those who have already been promoted retrospectively. In the facts and circumstances of the case, the interim order passed on 4.9.86 is made absolute and the administrative instructions issued in pursuance of the Ministry of Defence letter dated 8.4.86 are held to be invalid and are quashed and set aside to the extent they require the reversion of the applicants who were promoted after they had qualified in the prescribed Trade test. The respondents are further directed to continue the applicants in the grade of Chargeman(Highly Skilled Grade-II).

The OA is disposed of on the above lines.

No costs.


(I.K. RASGOTRA)
MEMBER(A)
31.07.92


(T.S. OBEROI)
MEMBER(J)
31.07.92