

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.2017/91

(29)

New Delhi this the 18th December, 1995.
Hon'ble Shri S.R. Adige, Member (A)
Hon'ble Shri D.C.Verma, Member (J)

A.K.Bhattacharjee
R/o 14-J/124, Ordnance Factory Estate
Moradnagar District
Ghaziabad, U.P.
(By Advocate: Shri D.K.Garg)

...Applicant

Versus

1. UOI through its Secretary
Ministry of Defence
New Delhi.
2. Chairman
Ordnance Factory Board
10 Auckland Road
Calcutta
3. The General Manager
Ordnance Factory Estate
Moradnagar Estate
Ghaziabad, U.P.
4. The Director General of Quality Assurance
Dept. of Defence Production
Ministry of Defence
DHQ, P.O. New Delhi.
5. The Director General of Inspection
Dept. of Defence Gradation/Quality
Assurance, Ministry of Defence
DGQ., P.O. New Delhi.
6. The Inspector of Metals
Inspectorate of Metals
Moradnagar.

...Respondents.

(By Advocate: Shri V.S.R.Krishna)

O R D E R

Hon'ble Shri D.C.Verma, Member (J)

The applicant has challenged the transfer order dated 20.10.84 by which he was transferred from Directorate General of Inspection (at present Directorate General of Quality Assurance in Inspectorate of Metals, Moradnagar) to Ordnance Factory, Moradnagar under Directorate General of Ordnance Factory.



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2. To understand the point involved in the case, the brief fact is given below:

3. The Ordnance Factory Board and the Directorate General of Quality Assurance are organisations under one department of the Government. A Quality Assurance Establishment under the Directorate General of Quality Assurance is set up in every ordnance factory to ensure quality of the equipments/stores produced by the respective factories. Earlier the productions were being checked up by the Inspections, but as the Quality Assurance Establishment was not uniform in all the factories due to stage/inter-stage transfer, a committee headed by Shri V.G.Rajadhyaksha was constituted in 1975 by the Government of India. The committee examined in detail the procedure followed in various ordnance factories and made a number of recommendations that included transfer of stage/inter-stage inspection responsibilities from Director General of Quality Assurance (DGQA) to Directorate General of Ordnance Factories (DGOF). After obtaining the views of the representatives of the employees, at a joint meeting, on the principle of 'Man on the job alongwith the job' basis, transfers were made and lists of employees transferred were displayed in the notice board, calling for objections. After objections were received and decided, a formal order of transfer was issued, which is under challenge.

4. On behalf of the respondents, an objection has been taken about the maintainability of the case on the ground of limitation.

5. We have heard learned counsel appearing for the parties.

6. Learned counsel of the applicant has placed his reliance on the decision given by Jabalpur Bench of the Tribunal in the case of B.L.Patel Vs. U.O.I. & Others (OA No.436/87, decided on 11th August

[Signature]

1989 wherein the relevant para is quoted below:

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"On the question of limitation and delay and laches the applicants have clearly stated that they had filed a representation on which the decision was taken by the respondents on 20.7.87. There was no averment to the contrary. We, therefore, hold that the petition is within limitation. Moreover, this is a matter which effects the continuous rights of staff and their service conditions and it cannot be held that the petition suffers from delay and laches. We, therefore, rule out this objection of the respondents."

7. On the basis of the above, the learned counsel has argued that juniors to the applicant who were not transferred got better chance of promotion in comparison to the applicant who was transferred to the Ordnance Factory. It has also been submitted that the applicant had submitted objection dated 6.6.84 on the ground that the transfer of the applicant to the Ordnance Factory would greatly jeopardise the prospects of promotion and future career of the applicant but the same was not properly considered. Another representation was sent on 24.9.84 but that too met the same fate. The submission is that inspite of his objection, the applicant was transferred from the DGQA to DGOF.

8. Learned counsel of the respondents has relied on a number of earlier pronouncements given by the Tribunal in OA 830/88 Chandra Kant Munint Rao Bagpat Vs. Director General of Inspection, Department of Defence Production & Others, decided by the Bombay Bench of the Tribunal on 14.11.91. The point asserted by the learned counsel of the applicant on the basis of the decision of Jabalpur Bench has been considered and negated by the Bombay Bench of the Tribunal.

9. Learned counsel for the respondents has filed several decisions of various Benches of the Tribunal wherein the point(s) raised by the applicant's counsel has already been considered and negated. The decisions referred and filed by the respondents' counsel are given below:



(i) OA No.298/90
K.K.Roychaudhary Vs. UOI & Others.
Decided on 11.10.90 by the New Bombay Bench, CAT. 32

(ii) OA No.392/90
A.K.Maitra Vs. UOI & Others.
Decided on 11.10.90 by the New Bombay Bench of CAT.

(iii) OA No.140/91
Neet Singh Bisht Vs. UOI & Others.
Decided on 11.7.91 by the Allahabad Bench of CAT.

(iv) OA No.885/89
Sohan Lal Vs. UOI & Others.
Decided on 30.4.90 by the Principal Bench of CAT.

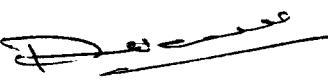
(v) OA No. 830/88
Chandrakant Munundrao Bapat Vs. UOI & others.
Decided on 14.11.91 by the Bombay Bench of CAT.

(vi) TA No.1416/86
Gurmeet Singh Vs. UOI & others.
Decided on 24.1.92 by the Allahabad Bench of CAT.

10. The above decisions, therefore, show that a consistent view has been taken by the Tribunal in all the earlier decisions wherein the relief claimed has been held to be barred by limitation.

11. We have, however, considered the case of the applicant also and we find that initially the transfer order was passed in 1984 and at that time the applicant did not challenge the said order in a court of law. The representation made by the applicant against the said order was rejected on 27.9.88, but even thereafter the applicant failed to challenge the said order. Thus in the circumstances, the case of the applicant is clearly barred by limitation.

12. In view of the above, this OA is dismissed. Costs on parties.


(D.C.Verma)
Member (J)

aa.


(S.R.Adige)
Member (A)