

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.696 of 1996

Alongwith

Original Application No.695 of 1996.

Allahabad this the 23rd day of July 2003.

Hon'ble Mr.Justice R.R.K. Trivedi, V.C.

Hon'ble Mr.D.R. Tewari, A.M.

1. Rajendra Singh Chauhan
son of Late Shri G.R. Singh
Rishi Nagar, Shuklaganj,
Kanpur.
2. Km. Chitra Tewari
Daughter of Late D.K. Tewari
66/1, Sahnew Colony, Kanpur.

.....Applicants.

(By Advocate : Sri A Srivastava/Sri K.C.Sinha)

Versus.

1. Union of India
through Director General Ordnance Factories
10-A, Auckland Road, Calcutta.
2. Additional Director General of Ordnance Factories,
Headquarters, Sarvodaya Nagar,
Kanpur.
3. General Manager
Ordnance Equipment Factory,
Kanpur.

.....Respondents.

(By Advocate : Sri A Mohiley)

ALONGWITH

Original Application No.695 of 1996.

1. R.K. Tewari
aged about 38 years
son of Shri Kailesh Nath Tewari
R/o J-48/H, Larmour Bagh, Cantt, Kanpur.
2. P.N. Srivastava
S/o Sri Jageshwar Dayal,
R/o 182/11, Shastri Nagar,
Kanpur.
3. R.P. Tewari



S/o Late Shri R.B. Tewari
R/o H-67/3, Sahney Colony
Cantt, Kanpur.

4. Ganesh Shankar Gupta
S/o Shri Ganga Charan Gupta
R/o 18/1, Safed Colony,
Juhi, Kanpur.
5. Ram Kishore Tripathi
S/o Sri Radhey Sharan Tripathi
R/o Plot No.128, Gopal Nagar, Kanpur.
6. Vinod Kumar Pandey
S/o Shri S.R. Pandey
R/o 301-A, Machharia Road,
Kanpur.
7. Ravi Rao Singh alias Chakki Lal,
Son of Late Sri Ram Bharesey
R/o L-549, World Bank Colony,
Gujaini Kanpur.
8. A.K. Sharma
S/o Late Sri Ram Gopal Sharma
H.No. 211/3, J.K. Colony,
Jajmau, Kanpur.
All working as Lower Division Clerks in
Ordnance Equipment Factory, Kanpur.

.....Applicants.

(By Advocate : Sri K.C. Sinha)

Versus.

1. Union of India
through Director General Ordnance Factories,
10-A, Auckland Road, Calcutta.
2. Additional Director General
of Ordnance Factories, Headquarters
(O.E.F Group) G.T Road, Kanpur.
3. General Manager,
Ordnance Equipment Factory,
Kanpur.

.....Respondents.

(By Advocate : Sri N.B. Sinha)

O_R_D_E_R

(Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

In both the aforesaid O.As, the question of
facts and law and nature of relief claimed are

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similar and both the OAs can be disposed of by a common order against which the learned counsel for the parties have no objection. O.A. No.696/96 will be leading ^{Case} ~~Case~~

2. Applicants have challenged the order dated 7.3.1988 by which the ~~orders~~ ^{order} orders dated 18.08.1984, 17.12.1984, 4.05.1985, 10.05.1985 and 11.8.86 were cancelled.

3. The facts, in short, giving rise to this O.A., are that Sri Rajendra Singh Chauhan and Km. Chitra Tewari were appointed on casual basis by order dated 08.01.1980 in the pay scale of Rs.260-400/-. Six persons were also appointed by subsequent order dated 10.4.1980. Appointments were terminated and fresh appointments were given on 24.07.1980. This casual appointment ~~was~~ continued until 22.02.1986 when service were regularised and they were appointed as quasi-permanent. By this order services of about 27 ^{were} persons ~~regularised~~ including the applicants. The date of the regularisation mentioned against the applicant was 1.1.1983. Another order was passed on 17.12.1984 (Annexure 7) by which it was provided that ~~these~~ ^{from} persons shall be treated as regularised on temporary basis ~~their~~ ^{from} initial appointment. Applicant's name were also mentioned in this order, dt. 1/1/1980 was shown their initial appointment against their names. It appears that similar orders were passed in respect of other employees. Subsequently Factory Managment realised ~~this~~ ^{and} mistake by order dated 07.03.1988, cancelled the order dated 17.12.1984 passed in favour of

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the applicants, ~~were also cancelled~~^e. Applicants, however, did not challenge the order before this Tribunal. Other three employees filed O.A. No.367 of 1988 in this Tribunal, challenging the order dated 17.03.1988 so far it cancelled the order No.1783 dated 18.08.1984. This O.A. was considered by this Tribunal and allowed by order dated 13.07.1989 (Annexure 13). From perusal of the order, it is clear that the order dated 7.3.88 challenged^{ed} before this Tribunal was mainly on the ground that there was discrimination between the applicants and one Sri B.S. Shukla, when this order was passed, ~~Applicants~~^{also} requested by making representation, they may also be given benefit of order dt 13/7/89. Their representations were forwarded to the Higher Authorities, but representations were not accepted. By order dated 12.03.1996 following directions was given:


"It is intimated that as per Govt's order the seniority of employees appointed to regular establishment will be reckoned with only from the date of regular appointment & service rendered on casual basis prior to appointment in regular establishment shall not be counted for the purpose of pay fixation etc".

After this order was issued, the recovery started from the applicant with regard to the amount which was illegally paid to them on the basis of order dated 7.12.1995. They^e they have approached this Tribunal by filing this present original application.

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4. The submissions of the applicant's counsel ^{agreed} that applicants are simillary situated and benefit of order of this Tribunal dated 13.07.1989 passed in O.A. No.367 of 1988 should be extended to them also. However, we do not find force in the submissions of the learned counsel for the applicant. The O.A. No.367 of 1988 was filed by Manoj Kumar Tewari and others in respect of order dated 18.08.1984 which was one of the order^u cancelled by order dated 7.3.1988. The judgment could not be termed in rem to them. This judgment ~~does~~^u not affect ~~any~~^{other} orders. The applicants cannot claim benefit of the order ~~which was never~~^{passed in favour} ~~of other~~^u ~~challenged~~^u. The applicants filed this O.A. ~~on~~^u 7.6.1996 challenging the order dated 7.3.1988 that is after more than 8 years.

5. Learned counsel for the applicants, however, ^{delay} tried to explain on the basis ~~of~~^u that impugned order was not given effect against the applicants and their representations were pending. However, there is no substance in the submissions made by learned counsel for the applicants. Applicants had given undertaking to the respondents that if their representations fail^u before the ^{high} authorities, the amount may be recovered from them, and they ^{shall} have no objection. As the order was passed on 12.03.1996, ⁱⁿ view of the undertaking given by the applicants the amount is being recovered from them, they cannot raise objection against action taken by the respondents. The another order challenged by the applicants dated 30.11.1995, ^{is} ~~is~~ only ~~an~~^u effect ~~by which~~^u ~~the~~^u representations of the applicants were forwarded to the Higher Authorities. ~~Only~~^u Action was started on 12.03.1996 (filed as Annexure CA-7) which



has not been challenged. Otherwise also legal position stated in the order dated 12.03.1996 appears to be sound, the applicant cannot dispute their appointment. Since their appointment was not regularised by order dated 22.02.1986 they could not claim any benefit of period which they served on casual basis, and that cannot be reckoned for the purposes of seniority and pay fixation.

6. In these circumstances, we do not find any good ground for interference. The O.A has no merit and is accordingly dismissed.

No order as to costs.

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