

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No. 812 of 1996

Wednesday, this the 28th day of January, 2004

Hon'ble Mr. Justice S.R. Singh, V.C.
Hon'ble Mr. D. R. Tiwari, A.M.

1. Chhotey Lal Son of Sri Shiv Lal,
T. No.119/CPR, O.E.F.,
Kanpur.
2. Mohd. Mustaqeem Son of Sri Abdul Subhan,
T. No.129/CPR,
O.E.F., Kanpur.

.....Applicants.

(By Advocate : Shri M.K.Upadhyay)

Versus

1. The Union of India,
through the Secretary,
Ministry of Defence,
Department of Defence Production,
New Delhi.
2. The Director General,
Ordnance Factories,
10-A, Auckland Road,
Calcutta -1.
3. The General Manager,
Ordnance Equipment Factory,
Kanpur.

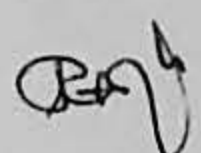
.... Respondents.

(By Advocate : Km. S. Srivastava)

O R D E R

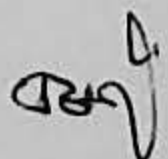
By Hon'ble Mr. Justice S.R. Singh, V.C. :

Heard counsel for the parties and perused the
pleadings.



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2. The applicants herein were initially appointed in Semi Skilled grade w.e.f. 1-10-1982. They were promoted to the Grade of Machinist W.W. and treated as Skilled grade w.e.f. the same date. It appears that consequent upon implementation of the recommendation of Guha Committee Report, the trades of Machinist W.W. and Packer were merged with Carpenter trade. The pay scale of Machinist W.W. was up-graded from Rs.210-290 to Rs.260-400 w.e.f. 16.10.1981 as per the recommendation of E.C.C. and the pay scale of Carpenter 'C' grade was up-graded from Rs.210-290 to Rs.260-400 w.e.f. 15.10.1984. However, consequent upon the judgment of Bhagwan Sahai Carpenter and others Vs. Union of India & another 1989 SCC (L&S) 348, the upgradation of Carpenter 'C' grade from Rs.210-290 was also given retrospective from 16.10.1981. In the meantime, the applicants were promoted to the grade of Carpenter H.S. Grade-II w.e.f. 18.6.1992 by virtue of their higher position in the seniority list. However, as a result of upgradation of the Carpenter 'C' grade w.e.f. 16.10.1981 pursuant to the judgment of Supreme Court, the seniority list had to be redrawn leading to reversion of the applicants from the grade of Carpenter H.S. Grade-II to Carpenter Skilled Grade. The order of reversion was passed after affording opportunity of showing cause. In his representation dated 13.4.1996 the applicant i.e. Mohd. Mustakim had admitted that he is junior to those individuals who have been holding the grade of Carpenter 'C' prior to 16.10.1981. In that view of the matter, no exception can be taken to the impugned order of reversion. A similar controversy arose in the OA No.113/96 Anjarull Hacue Vs. U.O.I. & ors. decided on 14.8.1996. The Tribunal after taking note of the judgment of Apex Court held



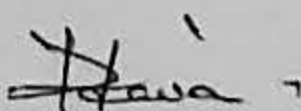
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that the applicant therein could not be held to have acquired any legal right on the higher post on account of higher position in the seniority list as stood before its amendment pursuant to the judgment of Supreme Court. Accordingly the OA was dismissed.

3. Shri M.K. Upadhyay, learned counsel for the applicants then submits that the applicant Chhote Lal was allowed to appear in the trade test for Carpenter H.S. Grade-II Rs.1200-1800 and on the basis of result of trade test he was promoted vide order dated 23.12.1996. Learned counsel for the respondents submits that the applicant No.2 i.e. Mustakim was also asked to appear in the trade test but he declined the same in the year 1996.

4. Learned counsel for the applicants then submitted that since the applicants had passed the trade test earlier at the time of promotion on the basis of initial seniority list, hence they ought not to have been asked to appear again in the trade test. He has placed reliance on the Full Bench decision in Ram Pal and others reported in 2003 (1) A.T.J. 304. Since there is no specific prayer in this regard, liberty is given to the applicants to stake their claim for promotion as and when vacancy occurs, if they are not already promoted. It is clarified that mere fact that the applicants had declined to appear in the trade test held in 1981 would not debar them from staking their claim for promotion on the basis of Full Bench decision relied by the learned counsel for the applicant in future trade test as and when vacancy arises.

5. The O.A. is stands disposed of in terms of above observation. No costs.


MEMBER (A)


VICE-CHAIRMAN