

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 20TH DAY OF NOVEMBER, 2003

Original Application No. 1009 of 1998

CORAM:

HON. MR. JUSTICE S. R. SINGH, VICE CHAIRMAN

HON. MR. D. R. TIWARI, MEMBER (A)

1. R. P. Srivastava, Son of
Late J. P. Srivastava, Resident
of GIT-152, Armapur Estate, Kanpur.
2. Ashok Kumar Nigam, son of
Late Sheo Narain Lal Nigam,
Resident of H. No. 124/41, E Block
Govind Nagar, Kanpur
3. R. C. Nigam, Son of Late Ram
Bali Nigam, resident of
H. No. 104-A/84, Ram Bagh,
Kanpur.

.. Applicants

(By Adv: Shri Wasim Alam)

Versus

1. Union of India through
Secretary, Government of
India, New Delhi.
2. Ordnance Factory Board through
its Chairman, (A/NG) 10-A Auckland
Road, Calcutta- 700001
3. Senior General Manager,
Ordnance Factory, Kalpi Road
Kanpur.

.. Respondents

(By Adv: Shri Amit Sthalekar)

O R D E R (Oral)

JUSTICE S. R. SINGH, V. C.


The applicants herein were initially appointed on the post of H.S. Grade I in the Ordnance Factory, Kalpi Road, Kanpur. The scale of pay admissible to the post of H.S. Grade I was Rs 380-560 w.e.f. 1.1.1986. As a result of the recommendation made by IVth Pay Commission, the pay

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scale of H.S. Grade I was revised to Rs 1320-2040.

It is not disputed that before 1.1.1986 the scale of pay for the post of Supervisor 'B' and that of H.S. Grade I was the same but after the implementation of the report of the IVth Central Pay Commission, the post of H.S. Grade I has been given a pay scale lower to that of Supervisor 'B'. However, pursuant to Notification No. 800/MC/A/I Govt. of India Ministry of Defence Ordnance Factory Board, 10-A Auckland Road, Calcutta dated 14.8.1985 workers in the HS Grade I became eligible for promotion to the post of Master Craftsman in the pay scale of Rs 425-15-560-EB-640. The scale of pay of Master Craftsman Rs 1400-2300 was also the scale of Chargeman Grade II, a grade which was not in existence initially in 1985. The procedure for promotion of H.S. grade I to the grade of Master Craftsman as visualised by Notification dated 14.8.1985 (Annexure CA-1).

On an option being given for promotion to the post of Master Craftsman in accordance with the Notification dated 14.8.1985, the applicants were considered and promoted on 2.4.1988 and 24.8.1990 respectively. Subsequently, vide (Annexure RA1) existing employees in the grade of H.S. Grade I "as on 31.12.1985" were given liberty to give their options to take promotion to the post of Chargeman Grade II(T) if the same were offered to them after their selection by the relevant DPC as visualised by FOPT 1 No. 383 (Annexure R-1). It is submitted by the learned counsel appearing for the applicants that pursuant to the said FOPT 1 No. 383 dated 25.10.1989 (RA-1) the applicants gave their options for promotion to the post of Chargeman grade-II(T). It is submitted that the applicants gave their options within time. The relief claimed therein is that the respondents be directed to accord promotion to



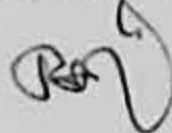
the applicants to the post of Chargeman grade II(T) with effect from 2.4.1988 and 24.8.1990 i.e. the date with effect from which they were promoted to the post of Mastercraftsman.

Having heard counsel for the parties we are of the considered view that no direction can be issued straight away by the Tribunal to the respondent to promote the applicants to the post of Chargeman II(T) for the reason that promotion to the said post as visualised by FOPT 1 No.383 dated 25.10.1989(Annexure RA-1) is subject to fulfilment of the conditions stipulated therein.

Counsel for the respondents however, submits that the OA is barred by time, in that the cause of action arose in 1989 in respect of applicants 1 & 2 and in 1990 in respect of applicant no.3. The OA has been filed on 8.9.1998. Section 20 (1) of the Central Administrative Tribunals Act 1985 provides that A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances. Sub Section (2) provides that a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,-

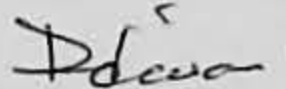
- a) If a final order has been made by the Govt. or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance ; or
- b) Where no final order has been made by the Govt or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

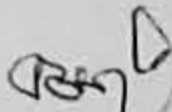
Section 21 (1) of the Act clearly inhabits the Tribunal from admitting an application:



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- a) in case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
 - b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

Sub Section(3) of Section 21 enables the Tribunal to condone the delay in filing the application on being satisfied that there had been sufficient cause for not making the application within the stipulated period. No application has been filed for condonation of delay. The representation as stated was preferred in the year 1991. The application is obviously barred by time and in view of the inhibition contained in Section 21 of the Administrative Tribunal Act 1985 the Tribunal cannot entertain the application. In the result, the OA is dismissed with no order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated:20.11.2003

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