

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Applications Nos. 200/01138, 1139, 1140/2019,
200/15 & 326/2020

Jabalpur, this Friday, the 16th day of July, 2021

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE MS. NAINI JAYASEELAN, ADMINISTRATIVE MEMBER



(1) ORIGINAL APPLICATION NO. 200/01138/2019

Layek Jalal Uddin, S/o Layek Sadrul Alam
Aged about years, Working as Carpenter (Skilled)
Section CE, Ticket No. 40/69221, Resident of Khamaria,
Jabalpur (MP) -Applicant
(By Advocate – Shri Manoj Sanghi)

V e r s u s

1. Union of India, through: its Secretary
Ministry of Defence, South Block, New Delhi Pincode-110011
2. The Ordnance Factory Board, through its Chairman
Ayudh Bhawan, 10-A Shaheed Khudiram Bose Road
Kolkata, Pincode-700020
3. The General Manager, Ordnance Factory Khamaria
Jabalpur, Pin code-482002 -Respondents
(By Advocate – Shri D.S.Baghel for respondents)

(2) ORIGINAL APPLICATION NO. 200/01139/2019

Sagar Paul, Son of Ashok Paul, aged about years
Working as Carpenter, (Skilled) Section CE Ticket No.
53/69192, Resident of 60/2, Type-I, East Land
Khamaria, Jabalpur (MP) -Applicant

(By Advocate – Shri Manoj Sanghi)

V e r s u s

1. Union of India, through: its Secretary

Ministry of Defence, South Block, New Delhi Pincode-110011

2. The Ordnance Factory Board, through its Chairman
Ayudh Bhawan, 10-A Shaheed Khudiram Bose Road
Kolkata, Pincode-700020
3. The General Manager, Ordnance Factory Khamaria
Jabalpur, Pin code-482002

—Respondents
(By Advocate – D.S.Baghel for respondents)



(3) ORIGINAL APPLICATION NO. 200/01140/2019

Prasenjit Mukherjee, Aged about years, S/o Prabir Kumar Mukherjee, working as Fitter General (Skilled) P.E.F.P./23/699275, Ordnance Factory Khamaria, Jabalpur, R/o 292E 'P' Type Khamaria, Jabalpur (MP) **-Applicant**

(By Advocate – Shri Manoj Sanghi)

V e r s u s

1. Union of India, through: its Secretary
Ministry of Defence, South Block, New Delhi Pincode-110011
2. The Ordnance Factory Board, through its Chairman
Ayudh Bhawan, 10-A Shaheed Khudiram Bose Road
Kolkata, Pincode-700020
3. The General Manager, Ordnance Factory Khamaria
Jabalpur, Pin code-482002

—Respondents

(By Advocate – Shri D.S.Baghel for respondents)

(4) ORIGINAL APPLICATION NO. 200/00015/2020

Govind Das Patel, son of Kishori Lal Patel
Aged about years, working as Fitter, General (Skilled)
Industrial Employee Section-ME-52/Pers. 59218
Ordnance Factory Khamaria, Jabalpur, R/o 94/4,
Type-II, East Land Khamaria, Jabalpur(MP) **-Applicant**

(By Advocate – Shri Manoj Sanghi)

V e r s u s

1. Union of India, through: its Secretary
Ministry of Defence, South Block, New Delhi Pincode-110011
2. The Ordnance Factory Board, through its Chairman
Ayudh Bhawan, 10-A Shaheed Khudiram Bose Road
Kolkata, Pincode-700020
3. The General Manager, Ordnance Factory Khamaria
Jabalpur, Pin code-482002

—Respondents



(By Advocate – Shri S.P.Singh alongwith Shri P.K.Chourasia for respondents)

(5) ORIGINAL APPLICATION NO. 200/00326/2020

Neelesh Kumar Jain, S/o Shri Laxmi Chand Jain
D.O.B. 11.08.1987, Working as Skilled Fitter Instrument
Ordnance Factory Khamariya,
R/o House No. 54 Nand Nagar,
Manegaon, Ranjhi, Jabalpur (MP)-482005

-Applicant

(By Advocate – Shri Vijay Tripathi)

V e r s u s

1. Union of India, through: its Secretary
Ministry of Defence, Department of Defence Production
& Supplies, South Block, New Delhi-110001
2. Chairman/Director General Ordnance Factory Board
10-A Shahid Khudiram Bose Marg, Kolkata-700001 (WB)
3. Sr. General Manager, Ordnance Factory Khamariya
Jabalpur (MP)-492005
4. Shri Mahip Raj Singh, Highly Skilled Grade-II
(Fitter), Ticket No. 35, Section-CE,
Ordnance Factory Khamariya,
Through the Sr. General Manager,
Ordnance Factory Khamariya,
Jabalpur (MP)-492005

—Respondents

(By Advocate – Shri S.P.Singh)

COMMON ORDER

By Ramesh Singh Thakur, JM:-



Heard.

2. The brief facts of the case is that the applicant has been selected for the post of Carpenter (Semi-skilled), by Ordnance Factory Khamaria, the said selection has been made on the basis of merit. The seniority list of the skilled employees ought to be prepared on the basis of Govt. order Annexure A-3 and Annexure A-4, i.e. on the basis of merit list prepared at the time of selection, but the seniority has been assigned on the basis of joining the service.

3. The questions or the issues involved in all five cases are similar in nature and therefore we are disposing of all five Original Applications by this common order. For purposes of this order facts and documents referred in Original Application No.200/01138/2019 are hereinafter being referred.

4. Precisely the facts of the case necessary for adjudication of these OAs are that the applicant was selected for the post of Carpenter (Semi-Skilled) through the written examination and trade test dated 18/22.10.2013 (Annexure A-1). The appointment order was issued by the respondent No. 2 on



30.10.2014 and the applicant was posted as Carpenter (Semi-Skilled) with effect from 17.11.2014 (Annexure A-2). After that the applicant made a request to modify the seniority list of skilled employee and place his name on the basis of merit list in place of the joining date in pursuance to Govt. Circular filed at Annexure A-3 & A-4. A Copy of the representation dated 10.04.2019 is filed at Annexure A-6. The said representation has been turned down by the Section Head through letter dated 10.06.2019 (Annexure A-7) with a reason that the appointment of the applicant was prior to office order dated 04.08.2015, thus no benefit can be granted. The applicant has made representation dated 26.06.2019 against Annexure A-7 and requested that in several factories of OFB, the seniority of industrial employees is being managed on the basis of number obtained in the written test i.e. on the basis of merit list as prepared at the time of selection, therefore the applicant should not be discriminated and his seniority should be fixed on the basis of merit and not on the basis of joining the service. A copy of the representation dated 26.06.2019 is annexed as Annexure A-8. But nothing has been decided so far.



5. The main grounds for challenge in this Original Application is that the applicant's seniority should be determined on the basis of Govt. Circular Annexure A-3 and the Ordnance Factory Board circular dated 04.08.2015 and seniority should be assigned on the basis of the merit list prepared at the time of selection, denial of benefit of Annexure A-3 and A-4 is nothing but denial of fundamental rights.

6. The respondents have filed their reply to the Original Application. In preliminary submissions to their reply the respondents have submitted that the applicant was appointed as Carpenter (Semi Skilled) on 17.11.2014 and he was promoted to Skilled (Carpenter) on 17.11.2016. After completion of three years service in the skilled grade and passing the prescribed trade test, the applicant was promoted to Highly Skilled Grade-II on 18.11.2019. A copy of which is annexed as Annexure R/01. The seniority of Carpenter (Skilled) as on 01.01.2019 was circulated by the factory which was prepared on the basis of holding the date of skilled grade as per OFB letter dated 24.12.2002 and dated 13.01.2003, wherein the name of the applicant was fixed at Sl. No. 20. A copy of letter dated 24.12.2002 is annexed as Annexure R/02

and copy of letter dated 13.01.2003 is annexed as Annexure R/03.



7. It is further submitted by the respondents in their reply that revised seniority list of Carpenter (Skilled Grade) was recasted on 09.12.2019 and circulated by the factory which was prepared as per merit of the selection panel as per OFB guidelines issued vide letter dated 04.08.2015 which was issued on 04.11.1992 and on 03.07.1986. The seniority was fixed for Semi Skilled Grade (Entry grade) and applicant name is appearing in the seniority at serial No. 4. A copy of OFB letter dated 4.08.2015 is annexed as Annexure A/4 in the O.A. and copy of seniority list as on dated 09.12.2019 is annexed as Annexure R/04. It has been further submitted that after consideration of representation of applicant dated 10.04.2019 the same was disposed off by the Factory and intimated to the applicant vide letter dated 10.06.2019 and are annexed as Annexure A/6 and A/7.

8. We have heard the learned counsel for both the sides and have gone through the pleadings and the documents annexed therewith.

9. From the pleadings it is admitted fact that the applicant was selected for the post of Carpenter (Semi-Skilled) by the



OFB Khamaria as per the select list. The applicant have joined as Carpenter (Semi Skilled) on 17.11.2014. After that the applicant made a request to modify the seniority list of skilled employee and place his name on the basis of merit list in place of the joining date in pursuance to Govt. Circular filed at Annexure A-3 & A-4. It is also admitted fact that representation was made by the applicant on 10.04.2019 (Annexure A-6) and the same has been rejected on 10.06.2019 (Annexure A-7) with a reason that appointment of the applicant is prior to office order dated 04.08.2015. The applicant had again made representation on 26.06.2019 vide Annexure A-7 and requested to correct the seniority position as per the number obtained in the written test.

10. The respondents has clearly mentioned in their reply that the applicants were appointed as Carpenter on 17.11.2014 and he was promoted to Skilled (Carpenter) on 17.11.2016. After completion of three years service in the skilled grade and passing the prescribed trade test, the applicant was promoted to Highly Skilled Grade-II on 18.11.2019. A copy of which is annexed as Annexure R/01. The seniority of Carpenter (Skilled) as on 01.01.2019 was circulated by the factory which was prepared on the basis of holding the date of skilled grade

as per OFB letter dated 24.12.2002 and dated 13.01.2003, wherein the name of the applicant was fixed at Sl. No. 20. A copy of letter dated 24.12.2002 is annexed as Annexure R/02 and copy of letter dated 13.01.2003 is annexed as Annexure R/03.



11. It has been specifically submitted by the respondents that revised seniority list of Carpenter (Skilled Grade) was re-casted on 09.12.2019 and circulated by the factory which was prepared as per merit of the selection panel as per OFB guidelines issued vide letter dated 04.08.2015 which was issued on 04.11.1992 and on 03.07.1986. The seniority was fixed for Semi Skilled Grade (Entry grade) and applicant name is appearing in the seniority at serial No. 4. A copy of OFB letter dated 04.08.2015 is annexed as Annexure A/4 in the O.A. and copy of seniority list as on dated 09.12.2019 is annexed as Annexure R/04.

12. We have perused the Annexure A-4 and it is very clear that Annexure A-4 is affected henceforth and it has no impact on the seniority list prepared earlier. As per Annexure A-4 it is clear that this circular dated 04.08.2015 shall come into force henceforth, meaning thereby that any promotion prior to this date shall not be disturbed and it is prospective in nature.



13. The respondents have specifically submitted that revised seniority list of Carpenter (Skilled Grade) was re-casted as on 09.12.2009 and circulated by the factory which was prepared as per merit of the selection panel as per OFB guidelines issued vide letter dated 04.08.2015, which was issued based on DoPT O.M. dated 04.11.1992 and dated 03.06.1986. The seniority was fixed for Semi Skilled Grade (Entry Grade) and applicant name is appearing in the seniority list at serial No. 4.

14. Resultantly in view of Annexure A-4 dated 04.08.2015 the earlier position shall not be disturbed. So there is no question of reviewing the earlier DPC. It is also basic law regarding the seniority to the fact that earlier seniority position which is settled shall not be unsettled. So Annexure A-4 circular dated 04.08.2015 also made it clear that this circular shall be came into operation henceforth meaning thereby prospective in nature.

15. Resultantly, these Original Applications are dismissed with no merits. No order as to costs.

(Naini Jayaseelan)
Administrative Member

rajul

(Ramesh Singh Thakur)
Judicial Member