

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Applications Nos. 200/00343, 349, 350, 352, 456 & 491/2020

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. 200/00343/2020

Sujeet Kumar Gound, S/o Shri Shyam Lal Gound
DOB:04.08.1989, working as Skilled Fitter Electronics
Ordnance Factory Khamariya, R/o Kamboj Coloney
Near Khalsa School, Tighra, Gana 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 Khudi Ram Bose Marg, Kolkata-700001 (WB)

3. Sr. General Manager, Ordnance Factory Khamariya
Jabalpur (MP)-492005

4. Shri Nikhil Bangale, Highly Skilled Grade-II (Fitter
Instrument), Ticket No. 88, Personal No. 68898,
Ordnance Factory Khamariya,
Through the Sr. General Manager,
Ordnance Factory Khamariya,
Jabalpur (MP)-492005

—Respondents

(By Advocate – Shri S.P.Singh)

(2) ORIGINAL APPLICATION NO. 200/00349/2020

Sushil S/o Shri Suresh, DOB: 04.03.1992
Working as Skilled Fitter Instrument, Ordnance Factory
Khamariya, R/o Qr. No. 40/, Type-II, Eastland Khamariya,
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 Khudi Ram 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 for respondents)

(3) ORIGINAL APPLICATION NO. 200/00350/2020

Jitendra Singh Yadav, S/o Shri Amar Singh Yadav,
DOB:18.03.1991, Working as Skilled Fitter Instrument
Ordnance Factory Khamariya, R/o House No. 769
Adarsh Nagar, Budhu Kachhi Ka Bada, 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 Khudi Ram Bose Marg, Kolkata-700001 (WB)

3. Sr. General Manager, Ordnance Factory Khamariya
Jabalpur (MP)-492005

4. Shri Sirajuddin, Highly Skilled Grade-II
(Fitter Boiler), Ticket No. 47, Section SU,
Ordnance Factory Khamariya,
Through the Sr. General Manager,
Ordnance Factory Khamariya,
Jabalpur (MP)-492005



5. Shri Tarani Sen Rout, Highly Skilled Grade-II
(Fitter Instrument), Ticket No. 29, Section EE,
Ordnance Factory Khamariya,
Through the Sr. General Manager,
Ordnance Factory Khamariya,
Jabalpur (MP)-492005

-Respondents

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

(4) ORIGINAL APPLICATION NO. 200/00352/2020

Ved Prakash S/o Shri Ramu Yadav, DOB: 01.01.1985,
Working as Skilled Fitter Instrument, Ordnance Factory
Khamariya, R/o House No. 286, Sanjay Nagar,
Bada Pathar, 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 Khudi Ram Bose Marg, Kolkata-700001 (WB)

3. Sr. General Manager, Ordnance Factory Khamariya
Jabalpur (MP)-492005

4. Shri Sirajuddin, Highly Skilled Grade-II
(Fitter Boiler), Ticket No. 47, Section SU,
Ordnance Factory Khamariya,
Through the Sr. General Manager,
Ordnance Factory Khamariya,
Jabalpur (MP)-492005

5. Shri Tarani Sen Rout, Highly Skilled Grade-II
(Fitter Instrument), Ticket No. 29, Section EE,
Ordnance Factory Khamariya,
Through the Sr. General Manager,
Ordnance Factory Khamariya,
Jabalpur (MP)-492005

-Respondents



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

(5) ORIGINAL APPLICATION NO. 200/00456/2020

Senikas Dungdung, S/o Shri Hembo Dungdung
DOB: 20.02.1992, Working as Fitter General Skilled
Ordnance Factory Khamariya, R/o 65/2, Type-II
East Land Khamariya, 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 Khudi Ram Bose Marg, Kolkata-700001 (WB)

3. Sr. General Manager, Ordnance Factory Khamariya
Jabalpur (MP)-492005

4. Shri Sanotsh Kumar Shrivastava, S/o Kedar Nath
Fitter Auto (Highly Skilled Grade-II), MT Section
Ordnance Factory Khamariya,
Through the Sr. General Manager,
Ordnance Factory Khamariya,
Jabalpur (MP)-492005

5. Shri Shiv Prakash Tiwari S/o Late Kanhaiya Tiwari,
Fitter Auto (Highly Skilled Grade-II), MT Section
Ordnance Factory Khamariya,
Through the Sr. General Manager,
Ordnance Factory Khamariya,
Jabalpur (MP)-492005

-Respondents

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



(6) ORIGINAL APPLICATION NO. 200/00491/2020

Chandan Kumar Bhagat, S/o Shri Lal Bihari Bhagat
D.O.B. 05.05.1994, working as Fitter General Skilled
Ordnance Factory Khamariya, Section P.E.F.P.
Personal Number 69132, R/o Buddhu Kachi Ka Bada
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 Khudi Ram Bose Marg, Kolkata-700001 (WB)
3. Sr. General Manager, Ordnance Factory Khamariya
Jabalpur (MP)-492005
4. Shri Sanotsh Kumar Shrivastava, S/o Kedar Nath
Fitter Auto (Highly Skilled Grade-II), MT Section
Ordnance Factory Khamariya,
Through the Sr. General Manager,
Ordnance Factory Khamariya,
Jabalpur (MP)-492005 **-Respondents**

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

COMMON ORDER

By Ramesh Singh Thakur, JM:-

Heard.

2. Through these Original Applications the applicants are aggrieved with the inaction of the respondents in not considering the applicants for promotion as Fitter Highly Skilled-II in spite of the fact that seniority list of the Fitter Skilled has been corrected considering the merit/marks obtained by the candidates in the selection of Semi-Skilled worker.



3. The questions or the issues involved in all six cases are similar in nature and therefore we are disposing of all six Original Applications by this common order. For purposes of this order facts and documents referred in Original Application No.200/00343/2020 are hereinafter being referred.

4. Briefly stated facts of the case necessary for adjudication of these OAs are that the respondent department has issued a notification/advertisement to fill up the post of Semi Skilled worker in different stream/trade. The applicant was eligible therefore, he submitted his candidature. The candidature of the applicant was accepted and accordingly a



call letter was issued in favour of the applicant to participate in the trade test. Copy of the call letter is enclosed as Annexure A-3. After trade test the respondent department has issued a select list wherein 58 marks have been reflected against the applicant. The relevant portion of the select list is enclosed as Annexure A-4. After selection the applicant was sent for medical examination and he was also given 3 sets of PVR form. The applicant after filling the PVR/Attestation form submitted the same in the office of the respondent No.3. Thereafter, the appointment order was issued in favour of the applicant. Copy of appointment letter dated 10.07.2014 is enclosed as Annexure A-5. In pursuance to the appointment letter, the respondent department has issued posting order dated 02.08.2014 (Annexure A-6), wherein the date of appointment of the applicant has been shown as 01.08.2014 and it has also been mentioned in the order that the applicant will be on probation for a period of two years. The applicant was made Fitter Skilled after completion of two years of service and now he is due for promotion as Highly Skilled-II. The seniority was given to the applicant and other candidates who were selected along with the applicant from the date of their joining as Semi-Skilled worker. Feeling aggrieved with the



incorrect principle applied for determination of the seniority, the employees filed Original Applications before this Tribunal and the Tribunal directed the respondent department to decide their representations within stipulated time. After interference of the Tribunal, the respondent department has corrected the seniority list and it was made on the basis of the merit/marks of the candidates obtained in the selection of Semi-Skilled worker. The seniority list of Fitter Skilled showing the position as on 01.01.2020 (Annexure A-1) clearly reveals that name of the applicant has been reflected at Sr. No. 27 and his marks have been shown as 58. After receiving corrected seniority list of the Fitter Skilled and Fitter Highly Skilled-II showing the position as on 01.01.2020, the applicant has preferred a representation dated 03.01.2020 (Annexure A-7) and requested that the candidates who have secured less marks than him has been kept in the seniority list of Highly Skilled-II therefore, his name should also be included in the seniority list of Highly Skilled-II. However, instead of promoting the applicant from the date of his juniors have been promoted, the respondent department has communicated a letter/order dated 18.05.2020 (Annexure A-8) whereby the applicant was

informed that he will be promoted subject to availability of vacancy.



5. The main ground for challenge in this Original Application is that once the seniority of the applicant has been revised, proper course is available for the respondent department to convene a Review DPC. However, instead of convening Review DPC, the respondent department has issued an order dated 18.05.2020 (Annexure A-8) and informed the applicant that he will be promoted subject to availability of vacancy. The other ground for challenge is that the seniority of the applicants and other similarly situated employees who were selected along with the applicants by same selection has been fixed on the basis of date of joining. Due to wrong fixation of seniority of the applicant, he could not be promoted on the post of Highly Skilled Grade-II.

6. The respondents have filed their reply to the Original Application. In their reply the respondents submitted that the applicant was appointed as Fitter Electronics (Semi Skilled) in the factory on 01.08.2014 and he was promoted to Fitter Electronics (Skilled) on 01.08.2016. The respondent No.4 was appointed as Fitter Electronics (Semi Skilled) in this Factory on 04.04.2014 and he was promoted to Skilled on 04.04.2016.



After completion of three years service he was promoted to High Skilled-II as Fitter (Electronics) on 04.04.2019. The seniority list of Fitter Electronics as on 01.01.2017 was circulated by the factory which was prepared on the basis of holding the date of skilled as per letter dated 24.12.2002 (Annexure R-1) & 13.01.2003 (Annexure R-2) wherein the name of the applicant was fixed at serial No. 157 and name of respondent No.4 was fixed at serial No. 63. The seniority list of Fitter Electronics (Skilled) was re-casted as on 01.01.2020 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. The seniority was fixed for Semi Skilled Grade (Entry grade) and the applicant name is appearing in seniority at Serial No. 27 as on 01.01.2020. A copy of letter dated 04.08.2015 is annexed as Annexure R-3.

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

8. From the pleadings it is clear that the applicant after passing the trade test has been selected for the post of Semi-Skilled worker in different stream/trade and the applicant has accepted the same and accordingly joint as such. After



medical examination and also after consideration of PVR/attestation form, the posting order was issued on 02.08.2014. It is also admitted fact that after two years, on completion of probation period the applicant was made Fitter Electronics (Semi Skilled) on 01.08.2014. thereafter the respondent department has issued a letter dated 04.08.2015 (Annexure R-3) whereby it has been specifically decided by the competent authority that in supersession of the earlier OFB circular dated 24.12.2002 and 13.01.2003, henceforth seniority in respect of Ifs will be governed by the relevant clause of DoPT O.M. dated 04.11.1992 and O.M. dated 03.07.1986. It is also made clear that promotion from Skilled to Highly Skilled Grade II will be made as per the seniority fixed for Semi-skilled grade (entry grade) which will be arrived at as per merit of the select panel, without making any linkage to the date of up-gradation to the Skilled Grade.

9. As per Annexure R-3 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.

10. The respondents have specifically submitted that seniority list of Fitter Electronics (Skilled) was re-casted on

01.01.2020 and was circulated by the factory which was prepared as per the merit of the selection panel as per OFB guidelines issued vide letter dated 04.08.2015. So the seniority fixed for the Semi Skilled (Entry Grade), the name of the applicant appeared in seniority at Sr. No. 27 as on 01.01.2020.



11. Resultantly in view of Annexure R-3 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 R-3 circular dated 04.08.2015 also made it clear that this circular shall be came into operation henceforth meaning thereby prospective in nature.

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

(Naini Jayaseelan)
Administrative Member
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(Ramesh Singh Thakur)
Judicial Member