

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Applications Nos.200/00312,313,366,367,474, 476 & 477/2020

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. 200/00312/2020

1. Seetaram Silawat S/o Shri Radhelal Silawat
Age:36 years, Trade-Masson (HS II) No. CE/7/68808)
OFK, R/o Qr.No. 61/5, Type-I, East Land,
Khamaria, Jabalpur-482005 (MP)
Email:sitaramsilawat83@gmail.com
Mobile No. 9893374679 **-Applicant**

(By Advocate – Shri P.Shankaran Nair)

V e r s u s

1. The Union of India, through: the Secretary
Ministry of Defence, Department of Defence Production
& Supplies, South Block, New Delhi-110001
2. The Chairman/DGOF, Ordnance Factory Board
Ayudh Bhawan, 10-A Shaheed Khudiram Bose Road
Kolkata-700001 (WB)
3. The General Manager, Ordnance Factory Khamaria
Jabalpur-482005 MP, Email-ordkham@sancharnet.in
4. Shri Vinod Shivacharan Indurkar, Mason (HS II)
T.No. CE/68839, Civil Engg. Section, Ordnance Factory
Khamaria, Jabalpur-482005 MP
5. Shri Rupendra Kumar Mason (HSII), T.No. CE/70024,
Civil Engg. Section, Ordnance Factory Khamaria,
Jabalpur 482005 (MP) **-Respondents**

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

(2) ORIGINAL APPLICATION NO. 200/00313/2020



1. Santosh Kumar Srivastava, S/o Mr. Kedar Nath
Age-36 years, Fitter Auto (HS II) T.No. MT/04/68745MT
Section, Ordnance Factory, Khamaria, Jabalpur-482005
(MP), R/o Qr. No. 89/7 Tye-II, East Land of Estate Khamaria
Jabalpur-482005 MP Mobile No. 8349074787
Email: santoshsrivastava332@gmail.com

2. Shiv Prakash Tiwari, S/o Late Kanhaiya Tiwari
Age-51 years, Fitter Auto (HS II) M.T.Section
Ordnance Factory Khamaria, Jabalpur-482005 (MP)
R/o House No. 445, Keshari Nagar, Manegaon,
Khamaria, Jabalpur, M.P. 482005
Mobile No. 9926090931
Email: sptiwari0161@gmail.com

3. Shishir Chouhan, S/o Shri Naresh Prasad Chouhan
Age-33 years, Fitter Auto (HS II) MT Section,
Ordnance Factory Khamaria, Jabalpur-482005 (MP)
Email: shishirchouhan@gmail.com
R/o Krishna Colony, Suhagi, Ward No. 77, Adhartal
Jabalpur 482005 (MP) Mobile No. 8962197327

4. Mahesh Singh Choudhary, S/o Shri Kunjilal Choudhary
Age-49 years, Fitter Auto (HS II) MT Section,
Ordnance Factory Khamaria, Jabalpur-482005 MP
R/o Village-Gana, Post Sonpur,
Dist. Jabalpur-482005 (MP) Mobile No. 8815078768
Email: mschoudhary1979@gmail.com

-Applicants

(By Advocate – Shri P. Shankaran Nair)

V e r s u s

1. The Union of India, through: the Secretary
Ministry of Defence, Department of Defence Production
& Supplies, South Block, New Delhi-110001

2. The Chairman/DGOF, Ordnance Factory Board
Ayudh Bhawan, 10-A Shaheed Khudiram Bose Road
Kolkata-700001 (WB)

3. The General manager, Ordnance Factory Khamaria
Jabalpur-482005 MP, Email-ordkham@sancharnet.in

4. Shri Ravindra Kumar Panwar, T.No. 68996
Fitter Gen (HS II) PEFP Section, Ordnance Factory
Khamaria, Jabalpur-482005 MP **—Respondents**

(By Advocate – Shri S.P.Singh for respondents Nos. 1 to 3
Shri Vijay Tripathi for respondent No.4 and for intervenor
Govind Das Patel,
Shri K.V.S.Sunil Rao for intervenors Vijendra Chouhan&ors.)



(3) ORIGINAL APPLICATION NO. 200/00366/2020

Shrawan Kumar Chaudhary, Age 42 years,
S/o Shri Gaurishankar Choudhary, Fitter Boiler (HS II)
T.No. SU/572/68967, Ordnance Factory, Khamaria
R/o Qr.No. 71/7, Type II East and Khamaria
Jabalpur-482005 MP
Mobile No. 8120402097 **-Applicant**

(By Advocate – Shri P.Sankaran Nair)

V e r s u s

1. The Union of India, through: the Secretary
Ministry of Defence, Department of Defence Production
& Supplies, South Block, New Delhi-110001

2. The Chairman/DGOF, Ordnance Factory Board
Ayudh Bhawan, 10-A Shaheed Khudiram Bose Road
Kolkata-700001 (WB)

3. The General manager, Ordnance Factory Khamaria
Jabalpur-482005 MP, Email-ordkham@sancharnet.in
Ofk.ofb@nic.in

4. Shri Ravindra Kumar Panwar, T.No.PEFP/68996
C/o General Manager, Ordnance Factory
Khamaria, Jabalpur-482005 MP **—Respondents**

(By Advocate – Shri S.P.Singh for respondents Nos. 1 to 3
Shri Vijay Tripathi for respondent No.4)

(4) ORIGINAL APPLICATION NO. 200/00367/2020

Vinod Kumar Upadhyay, Age 55 years,
 S/o Late Surendra Upadhyay Fitter Elect. HS II,
 T.No. EE/42/68927 Ordnance Factory Khamaria,
 R/o Qr. No. 92/7, Type-II, East and Khamaria,
 Jabalpur-482005 MP
 Mobile No. 9329003502

-Applicant



(By Advocate – Shri P.Shankaran Nair)

V e r s u s

1. The Union of India, through: the Secretary
 Ministry of Defence, Department of Defence Production
 & Supplies, South Block, New Delhi-110001
2. The Chairman/DGOF, Ordnance Factory Board
 Ayudh Bhawan, 10-A Shaheed Khudiram Bose Road
 Kolkata-700001 (WB)
3. The General Manager, Ordnance Factory Khamaria
 Jabalpur-482005 MP, Email-ordkham@sancharnet.in
Ofk.ofb@nic.in
4. Shri Ravindra Kumar Panwar, T.No.PEFP/68996
 C/o General Manager, Ordnance Factory
 Khamaria, Jabalpur-482005 MP

-Respondents

(By Advocate – Shri S.P.Singh for respondents Nos. 1 to 3
 Shri Vijay Tripathi for respondent No.4

(5) ORIGINAL APPLICATION NO. 200/00474/2020

Sirajuddin, Age 31 years, S/o Mr. Dil Mohammad
 Ticket No. SU/47/68644, Fitter (Boiler) HS II
 Ordnance Factory Khamaria, Jabalpur-482005(MP)
 R/o C/o 3420/1Thakur Kirana Store, Sarra Pipal
 Ranjhi Jabalpur-482005 MP
 Mobile No. 9993057320
 Email id- sirajuddinkhan977@gmail.com

-Applicant

(By Advocate – Shri P.Shankaran Nair)



V e r s u s

1. The Union of India, through: the Secretary
Ministry of Defence, Department of Defence Production
& Supplies, South Block, New Delhi-110001
2. The Chairman/DGOF, Ordnance Factory Board
Ayudh Bhawan, 10-A Shaheed Khudiram Bose Road
Kolkata-700001 (WB)
3. The General manager, Ordnance Factory Khamaria
Jabalpur-482005 MP, Email-ordkham@sancharnet.in
Ofk.ofb@nic.in
4. Shri Ravindra Kumar Panwar, T.No.PEFP/68996
C/o General Manager, Ordnance Factory
Khamaria, Jabalpur-482005 MP

—Respondents

(By Advocate – **Shri S.P.Singh**)

(6) ORIGINAL APPLICATION NO. 200/00476/2020

Taranisen Rout, Age 37 years, S/o Shri Bidyadhar Rout
Trade-Fitter (Electric) HS II, T.No. EE/23/68889
R/o House No. 463, Budhu, Kachi Ka Wada, Manegaon
Ranjhi, Jabalpur-482005 MP,
Mobile No. 7999775880

-Applicant

(By Advocate – Shri P.Shankaran Nair)

V e r s u s

1. The Union of India, through: the Secretary
Ministry of Defence, Department of Defence Production
& Supplies, South Block, New Delhi-110001
2. The Chairman/DGOF, Ordnance Factory Board
Ayudh Bhawan, 10-A Shaheed Khudiram Bose Road
Kolkata-700001 (WB)
3. The General Manager, Ordnance Factory Khamaria
Jabalpur-482005 MP, Email-ordkham@sancharnet.in
ofk.ofb@nic.in

Shri Ravindra Kumar Panwar, T.No.PEFP/68996
 C/o General Manager, Ordnance Factory
 Khamaria, Jabalpur-482005 MP

—Respondents

(By Advocate – **Shri S.P.Singh**)

(7) ORIGINAL APPLICATION NO. 200/00477/2020



Mahipraj Singh, Age-39 years,
 S/o Shri Mohanlal Masram, Trade-Fitter (Pipe)
 HS II, T.No. CE/35/68650, Plot No. 74,
 Ambedkar Colony, Katra Adhartal, Jabalpur (MP)
 Pin 482004, Mobile No. 9575191377

-Applicant

(By Advocate – Shri P.Shankaran Nair)

V e r s u s

1. The Union of India, through: the Secretary
 Ministry of Defence, Department of Defence Production
 & Supplies, South Block, New Delhi-110001
2. The Chairman/DGOF, Ordnance Factory Board
 Ayudh Bhawan, 10-A Shaheed Khudiram Bose Road
 Kolkata-700001 (WB)
3. The General manager, Ordnance Factory Khamaria
 Jabalpur-482005 MP, Email-ordkham@sancharnet.in
Ofk.ofb@nic.in

Shri Ravindra Kumar Panwar, T.No.PEFP/68996
 C/o General Manager, Ordnance Factory
 Khamaria, Jabalpur-482005 MP

—Respondents

(By Advocate – Shri S.P.Singh for respondents
 (Date of reserving the order: 17.03.2021)

COMMON ORDER

By Ramesh Singh Thakur, JM:-

Heard.

Through these Original Applications the applicants are aggrieved by the seniority list of Fitter Trade (All) (Highly Skilled Gde II) as on 01.01.2020 vide letter dated 28.02.2020 (Annexure A-1) and subsequent show cause notice dated 14.05.2020 (Annexure A-2).



2. The questions or the issues involved in all seven cases are similar in nature and therefore we are disposing of all the seven Original Applications by this common order. For the purposes of this order facts and documents referred in Original Application No.200/00313/2020 are hereinafter being referred.

3. Briefly stated facts of the case necessary for adjudication of these OAs are that on having all qualification criteria and passed the selection process held in the year 2013 applicants were appointed as Fitter (Auto) Semi Skilled by respondent No.3 on different dates in May 2014. Applicants were appointed in Skilled Grade in May 2016. The seniority list of Fitter Semi Skilled in all trades was made combined by respondent No.3 taking into length of service/joining date for



the purpose of promotion instead of maintaining separate cadre for each grade and the same policy was continued till when applicants were promoted to highly skilled grade II. Respondent No.3 circulated combined seniority list of all Fitter (Skilled) Trades as on 01.01.2019 (Annexure A-3). Based on this list, applicants were promoted to Highly Skilled Grade II after having passed the prescribed practical test immediately after 3 years of service in skilled category. Promotion to highly skilled is based on seniority subject to passing the prescribed practical test. However, all of a sudden, respondent No.3 prepared the seniority list of Fitter (Highly Skilled II) combined and circulated vide impugned circular dated 28.02.2020. It is seen from the list, that many juniors of the applicants in feeder category have been placed over applicants occupying higher senior position. Immediately after that applicants submitted representations to respondent NO.3 on such mistakes in the seniority list. Copies of the representations are annexed as Annexure A-4 to A-8. Before deciding the objections on said seniority list respondent No.3 issued the impugned notice dated 14.05.2020 to applicant No.2 intimating their decision to revert him to lower skilled grade on the ground that he was promoted to HS Grade II in place of his seniors based on

seniority revised vide OFB circular dated 04.08.2015, copy of which was supplied on query under RTI Act (Annexure A-9). Applicant No. 2 submitted reply to notice on 18.05.2020 (Annexure A-10), which has not been decided yet.



4. However, it is noted that instructions issued under OFB circular dated 04.08.2015 was further clarified vide circular dated 07.01.2016 (Annexure A-11) and according to the clarification, seniority adjudged prior to 04.08.2015 will not be disturbed but only in case of recruitment taken place on or after 04.08.2015. As per modified SRO No. 34/1997, posts are available in all trades from Semi Skilled to Master Craftsman and promotions are being taken place based on SRO 185/1994 modified vide SRO/34/1997 (Annexure A-12). The recruitment notification No. 2613/EA/LB/OKF-III (Annexure A-13) issued by respondent no. 3 in 2013 was for semi skilled categories, in which direct recruitment is made, which shows that posts are authorized in trade wise, but not revealed the information by authorities. Written test and practical test for selection and appointment in Semi Skilled in response to above notification were conducted trade wise and it was not a combined selection list for all trades. Selection for appointment

as Auto Fitter was held first and selection to all other trades was held subsequently.



5. The seniority of the applicants and all other in Semi Skilled Grade based on date of joining on the post and the same method was continued till the impugned seniority list was published. The reason for changing the said position was alleged to be the instructions contained in circular dated 04.08.2015 issued by respondent No.3. Though the authority has stated that the seniority was revised based on OFB circular dated 04.08.2015 which is not applicable in case of recruitment taken place prior to 04.08.2015. Applicants were all appointed in semi skilled category prior to 04.08.2015. Therefore there is no justification to recast the seniority of applicants already settled.

6. The main grounds for challenging the action of the respondents is that respondent No.3 violated the instructions issued by respondent No.2 on the subject, which clearly stipulates that seniority settled prior to 04.08.2015 cannot be unsettled. Because the policy adopted by respondent No.3 to make combined seniority of all categories of Fitter (HS) is unknown to the settled law on the subject. The other ground for challenge is that many of the juniors of applicant No.2 in



the impugned seniority list are also holding promoted post of HS II, but respondent No. 3 not issued any reversion notice to Shri Vinod Kumar Yadawa at Serial No. 129 in the impugned list. Thus, action of the respondent No.3 is highly arbitrary and discriminatory by placing many juniors of applicants in higher position of seniority in HS Grade II without affording any prior opportunity to applicants.

7. The respondents Nos. 1 to 3 have submitted their reply to the Original Applications, wherein in preliminary submissions they submitted that applicants were appointed as Auto Fitter (Semi Skilled) in the factory. After completing two years of service in Semi Skilled they were promoted from Semi Skilled to Skilled. Again after passing prescribed trade test and completed three years service in skilled grade they were promoted to High Skilled Grade-II in May and June-2019 in the various dates. The seniority list of fitter group on 01.01.2019 was circulated by the factory which was prepared on the basis of holding the post of skilled as per OFB letter dated 24.12.2002 and 13.01.2003. Copies of both the letters are annexed as Annexure R/1 and R/2 and copy of seniority list of skilled is annexed as Annexure A-3 of O.A. Seniority list of Fitter all trades (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. A copy of the seniority list of skilled is annexed by the applicants in O.A. as Annexure A-1.



8. It is further submitted by the respondents Nos. 1 to 3 that show cause notice dated 14.05.2020 was issued to applicant No.2 as why they should not be reverted in Skilled grade from Highly Skilled Grade-II based on revised seniority but after implementation of Hon'ble CAT order dated 02.06.2020 reversion was cancelled by the factory order dated 14.05.2020 and a copy of order dated 04.07.2020 are annexed in O.A. by the applicants as Annexure A-2 and R-3. The Ordnance Factory Board directed the factory to recast the seniority list as per marks of selection panel, therefore, seniority list was circulated on 01.01.2020 according to OFB letter dated 04.08.2015.

9. The respondent No.4 in its reply have stated that after completion of due process for the post of Semi Skilled worker in different stream/trades the appointment order was issued in favour of respondent No.4. The copy of appointment order dated 26.04.2014 is annexed as Annexure R-4/1. Seniority list Annexure A-3 has been prepared by the respondent



department on the basis of date of joining of the candidates as Fitter Semi Skilled. Feeling aggrieved with the incorrect principles applied for determination of the seniority, the employees of the Ordnance Factory Khamariya lodged their protest by filing Original Application and this Tribunal directed the respondent department to decide their representations within a stipulated time. After interference by this 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 respondent department has issued seniority list of Fitter Skilled showing the position as on 01.01.2020 (Annexure R-4/2). Ordnance Factory Board, after realizing its mistake while fixing the seniority of the industrial employees therefore, issued an instructions dated 04.08.2015 wherein it has been mentioned that the seniority of the industrial employees will be governed by the relevant clause of the DoPT O.M. dated 4th November 1992 and O.M. dated 3rd July 1986. Accordingly promotion from skilled to highly skilled-II will be made as per the seniority of Semi Skilled Grade (Entry grade) which will be arrived as per merit of the select panel without making any linkage to the date of upgradation in the grade. It has been further made



clear that the seniority of the semi skilled worker will be fixed on the basis of marks obtained by the candidates in the selection of semi skilled. Thus, the respondent department has rightly corrected the seniority list of the semi skilled, highly skilled-II showing the position as on 01.01.2020 by applying the criteria fixed by DoPT vide O.M. dated 04.11.1992 and O.M. dated 03.07.1986, which is annexed as Annexure R-4/3. The DoPT has issued an office memorandum dated 11.11.2010 (Annexure R-4/4) whereby instructions has been issued to determine the seniority of the candidates who were selected by direct recruitment. AS per Office Memorandum dated 11.11.2010 the seniority of the direct recruitment candidates is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of earlier selection will be senior to those appointed as a result of subsequent selection. The seniority list of semi skilled worker is not prepared by the respondent department as it is treated as training period. After completion of 2 years as semi-skilled worker, the industrial employees are given placement and designated as skilled worker and thereafter the seniority list of the skilled worker is prepared. It is not out of place to



mention here that the industrial employees who were appointed in the year 2014 became skilled worker in the year 2016. Thus, the instructions dated 07.01.2016 (Annexure A-11) filed by the applicant has been issued by the OFB, to cover up the illegality committed by the Ordnance Factory, Khamariya. The respondent No.4 has received information under right to information act from other Ordnance Factories whereby it has been informed that seniority is being given to the industrial employees on the basis of the merit of candidates not on the basis of joining. Copy of information received under RTI act is enclosed herewith as Annexure R-4/5.

10. It is further submitted that one Shri Madan Lal has filed an O.A. before this Tribunal which was registered as O.A. No. 886/2019. The said O.A. was finally decided by this Hon'ble Tribunal with a direction to the respondent department to decide the representation of the applicant. This Tribunal had never directed the respondent department to grant seniority to Madan Lal on the basis of marks obtained in the selection of semi-skilled worker. The respondent department had granted seniority to Shri Madan Lal on the basis of marks obtained in the selection of semi-skilled worker and he was also given

promotion as Highly Skilled-II vide order dated 22.11.2019 (Annexure R-4/6). The official respondents cannot take a stand that the order passed by the Hon'ble CAT dated 09.10.2019 is in personam. Copy of the order is enclosed herewith as Annexure R-4/7.



11. The applicant has filed the rejoinder to the reply filed by respondents Nos. 1 to 3 in which it has been submitted that the position of seniority of applicants and respondent No.4 shown in the impugned seniority list is of HS Grade II and not in skilled trades as claimed. Since the seniority of applicants was adversely affected after their promotion to HS II, i.e. by disturbing the seniority assigned to them in feeder grade, despite clear instructions from respondent No.2, they have challenged the said seniority in the O.A. The respondent No.3 did not follow the instructions issued by OFB vide letter dated 04.08.2015, which was further clarified vide letter dated 07.01.2016, according to which seniority of semi skilled tradesman appointed prior to 04.08.2015 should not be disturbed on the plea that recasting is required to be done based on merit, but only to those who were appointed on or after 04.08.2015. Respondent No.3 has not shown any authority under which the trade of Fitter was merged into a



common seniority. Infact applicant No. 1 specifically sought for this authority letter, but respondent No.3 failed to show any such authorization from any authority or respondent No.2, who also failed to highlight this issued. The select list for each of Fitter Trades (SS) is separate based on separate selection process i.e. written test and skilled test which was based on syllabus of each trade. Therefore, comparative merit among the selected candidates for different trades cannot be determined except inter-se of each trade separately. The seniority list of highly skilled grade II published as on 01.01.2020 is contrary to the seniority assigned to the applicant in the feeder category of skilled trade and also in contrary to the instructions/policy on the subject.

12. One Shri Govind Das Patel, Intervener in the O.A. filed the reply, in which it is submitted that the department has issued a select list wherein the name of the intervener Govind Das Patel was reflected. After selection the intervener was sent for medical examination and he was also given 3 sets of PVR form. The intervener after filling the PVE/Attestation form submitted the same in the office of respondent No.3. Thereafter, appointment order was issued in his favour. Copy of appointment letter dated 30.10.2014 is annexed as



Annexure IA/1. The applicant has filed the seniority list of Fitter Skilled showing the position as on 01.01.2019 (Annexure A-3) wherein the name of intervener has been shown at serial No. 110. The seniority list has been prepared on the basis of joining of candidates as Fitter Semi Skilled. The date of joining of applicant on the post of Fitter Semi Skilled is 30.06.2014 whereas the date of joining of intervener is 12.11.2014. It has been further stated by the intervener that feeling aggrieved with the incorrect principle applied for determination of seniority, the employees of OFK, filed original applicant before this Tribunal and after interference of the Tribunal the respondent department has corrected the seniority list and it was made on the basis of merit/marks of candidates obtained in the selection list of Fitter Skilled showing the position as on 01.01.2020 (Annexure IA/2). It has been further made clear that the seniority of the Semi-skilled worker will be fixed on the basis of marks obtained by the candidates in the selection of semi-skilled. Thus, the respondent department has rightly corrected the seniority list of semi-skilled, highly skilled-II showing the position as on 01.01.2020 by applying the criteria fixed by DoPT vide O.M. dated 04.11.1992 and O.M. dated 03.07.1986, which is annexed as Annexure IA/3. The DoPT



has issued an O.M. dated 11.11.2010 (Annexure IA/4) whereby instructions has been issued to determine the seniority of candidates who were selected by direct recruitment. As per O.M. dated 11.11.2010 the seniority of the direct recruitment candidates is determined by the order of merit in which they are selected for such appointment on the recommendations of UPSC or other selecting authority, persons appointed as a result of earlier selection will be senior to those appointed as a result of subsequent selection. The intervener has received information under Right to Information act from other Ordnance Factories whereby it has been informed that seniority is being given to the industrial employees on the basis of merit of candidates not on the basis of joining. Copy of the information received under RTI act is enclosed as Annexure IA/5. As per the principle applied by the respondent department to determine the seniority of the industrial employees of the Ordnance Factory Khamariya, the intervener has preferential right to be promoted as highly skilled-li over and above to the applicant.

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



14. From the pleadings it is admitted fact that the selection process for the post of Fitter (Auto) Semi Skilled was conducted by the respondent No.3 on different dates in the year 2014 and thereafter the applicants were appointed in Skilled Grade in May 2016. The combined seniority was prepared on the basis of length of service/joining date for the purpose of promotion. Thereafter the applicants were promoted to highly skilled Grade II. The seniority list of all Fitter (Skilled) trade were prepared as per Annexure A-3 and on that basis the applicants were promoted to Highly Skilled Grade II after passing the prescribed practical test immediately after three years of service in Skilled category on 28.02.2020. The applicants made representation to respondent NO.3. The representations are from Annexures A-4 to A-8. Vide OFB circular dated 04.08.2015 the seniority list was prepared. Further clarification was circulated on 07.01.2016 as per Annexure A-11. Accordingly, as per clarification the seniority adjudged prior to 04.08.2015 was not to be disturbed.

15. The contention of the applicant is that the seniority list should have been prepared trade wise. The second contention of the applicant is that seniority of the applicant was prepared on the basis of date of joining on the post and same method



was continued till the impugned seniority list was published. The reason for changing the said position was alleged to be the instructions contained in circular dated 04.08.2015 issued by respondent No.3. Though the authority has stated that the seniority was revised based on OFB circular dated 04.08.2015 which is not applicable in case of recruitment taken place prior to 04.08.2015. Applicants were all appointed in semi skilled category prior to 04.08.2015. Moreover, the seniority has been settled till the notification dated 04.08.2015.

16. The respondents on the other side have submitted in their reply that applicants were appointed as Auto Fitter (Semi Skilled) in the factory. After completing two years of service in Semi Skilled they were promoted from Semi Skilled to Skilled. Again after passing prescribed trade test and completed three years service in Skilled Grade, they were promoted to Highly Skilled Grade-II in May and June-2019 in the various dates. The seniority list of fitter group on 01.01.2019 was circulated by the factory which was prepared on the basis of holding the post of skilled as per OFB letter dated 24.12.2002 and 13.01.2003. Thereafter, seniority list of Fitter all trades (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 show cause notice dated 14.05.2020 was issued to applicant No.2 as why they should not be reverted in Skilled grade from Highly Skilled Grade-II based on revised seniority. The respondent No.4 in their reply have submitted that after completion of due process for the post of Semi Skilled worker in different stream/trades the appointment order was issued in favour of respondent No.4. Seniority list Annexure A-3 has been prepared by the respondent department on the basis of date of joining of the candidates as Fitter Semi Skilled. The employees of the Ordnance Factory Khamariya lodged their protest by filing Original Application and this Tribunal directed the respondent department to decide their representations within a stipulated time. After interference by this 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 and accordingly seniority list was re-casted on 01.01.2020 as per Annexure R-4/2. It has been submitted by respondent No. 4 that after realizing its mistake while fixing the seniority of the industrial employees therefore, issued an instructions dated

04.08.2015. Accordingly promotion from skilled to highly skilled-II was made.

17. The main question for determination is that whether the OFB letter dated 04.08.2015 is retrospective or prospective in nature.



18. We have perused this letter and it has been specifically indicated in this OFB letter dated 04.08.2015 (Annexure A-9) that the competent authority has decided that in supersession of OFB circular dated 24.12.2002 and 13.01.2003, henceforth, seniority in respect of IEs will be governed by the relevant clause of DoPT O.M. dated 04.11.1992 and O.M. dated 03.07.1986 meaning thereby this letter Annexure A-9 is applicable with effect from 04.08.2015 prospectively. So the contention of the applicant that the impugned seniority list as per Annexure A-1 is correct and is against Annexure A-9. The order dated 04.08.2015 specifically speaks that this circular is to be applicable henceforth. So the concept of determining the seniority on the basis of merit comes into force with effect from 04.08.2015 and earlier seniority positions are correct and do not require any change. So the contention of the applicants that the seniority list of Highly Skilled Grade II, which has been made on the basis of seniority, prepared after the coming of



Annexure A-9 has been mis-interpreted and all promotions to Highly Skilled Grade II are bad in law. The second question regarding the combined seniority list of all skilled Fitter contended cannot be there because the applicants were recruited separately for separate trades as Semi Skilled Fitter as the respondents replied in their reply in Para 4.3 as per OFB directions Sub Trades of Fitter were merged on functional requirements and a common seniority list was made of all Fitter Trade and the combined seniority has been prepared of all trade according to sanctioned strength. So these are the sub trades of the fitter category. So we do not find any force in the arguments of the applicants that the combined list should not be there.

19. In view of the above, the action of the respondents for promotion to Highly Skilled Grade II, Fitter Trade circulated vide letter dated 28.02.2020 (Annexure A-1) and notice dated 14.05.2020 (Annexure A-2) is quashed and set aside. The respondents are directed to re-caste the fresh seniority list of the applicants as per Annexure A-9 dated 04.08.2015 as it is applicable prospectively.

20. The said exercise be done within a period of three months from the date of receipt of copy of order of this Tribunal. No order as to costs.

(Naini Jayaseelan)
Administrative Member

(Ramesh Singh Thakur)
Judicial Member

