

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

Original Application No. 350/0 1624 of 2019

1. Shri Parmeswar Shaw, son of Late Samaru Shaw, aged about 54 years, residing at 20/27, Sahid Sarani, Kalianibas, P.O. Nona-Chandanpukur, Dist. 24 Parganas (North), Kolkata-700122.
2. Shri Shankar Chandra Das, son of Late Suresh Das, aged about 42 years, residing at Nutangram, P.O. Purba Bidyadarpore, Via-Shyamnagar, Dist. 24 Parganas (North), Pin-743127.
3. Shri Jagannath Das, son of Late Kishori Das, aged about 54 years, residing at Ashutosh Nagar, Garulia, P.O. Garulia, Dist. 24 Parganas (North), Pin-743133.
4. Shri Biswajit Halder, son of Late R.N. Halder, aged about 55 years, residing at Vill. & P.O. Garulia (Dakshinpara), Dist. 24 Parganas (North), Pin-743133, West Bengal.
5. Shri Sukumar Dhali, son of Late Rishipada Dhali, aged about 57 years, residing at Vill. & P.O. Keutia, Via-Kankinara, PS-Jagaddal, Dist. 24 Parganas (North), Pin-743126.

6. Shri Kanailal Malik, son of Late Nepal Chandra Malik, aged about 55 years, residing at Duley Para, Kanthadhar, P.O. Ichapur Nawabganj, Dist. 24 Parganas (North), Pin-743144.
7. Shri Kartick Pal, son of Late L. N. Pal, aged about 52 years, residing at S.B. Road, Kalitala, P.O. Ishapore Nawabgunj, Dist. 24 Parganas (North), Pin-743144, West Bengal.
8. Belayet Hossain, son of Late K. A. Mohammad, aged about 54 years, residing at Vill. Bilkanda, P.O. Natagarh, Dist. 24 Parganas (north), Pin-743175.
9. Shri Bireswar Dhar, son of Late Borada Kanta Dhar, aged about 58 years, residing at 46, B.T. Road, GE (N), Kolkata - 700050

All the applicants are holding civil post under the various Garrison Engineers in the office of Commander Works Engineer (Suburb), under Military Engineer Service, Barrackpore, Kolkata-700020.

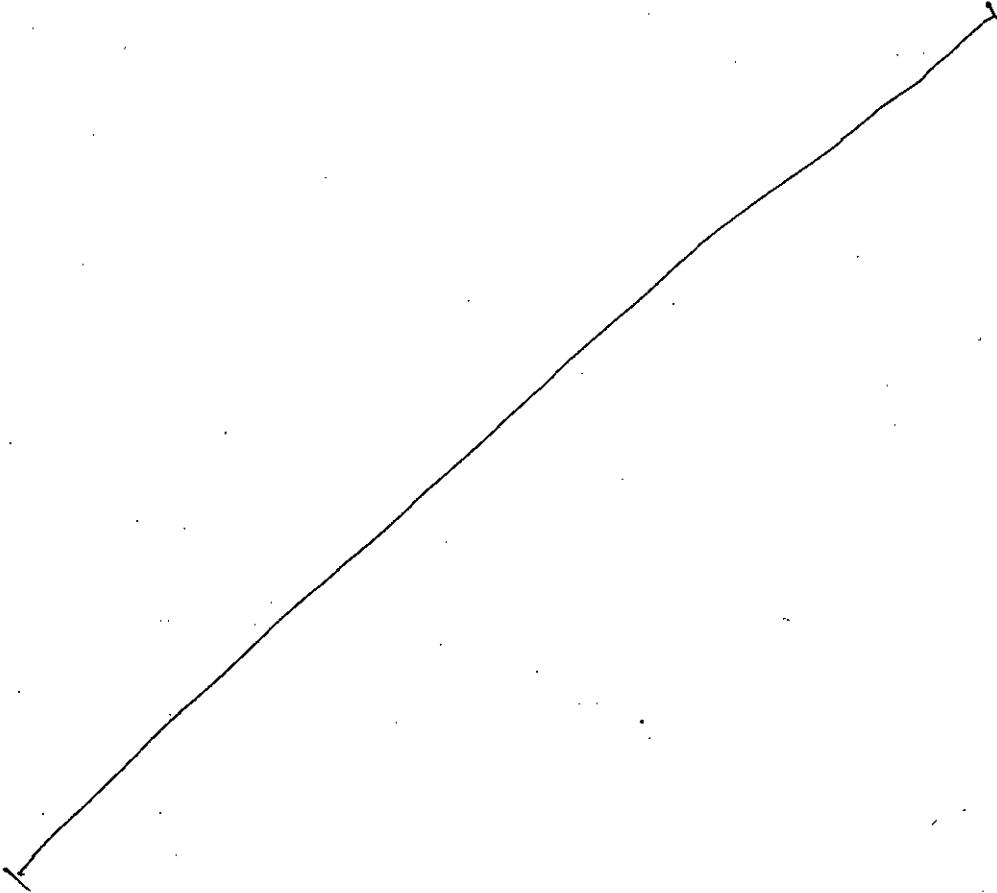
Applicants

- Versus -

1. Union of India, service through The Secretary to the Government of India, Ministry of Defence, South Block, New Delhi-11.

2. Commander Works Engineers (Suburb),
Military Engineering Services, P.O.
Barrackpore, Dist. 24 Parganas, West
Bengal-743101.
3. Garrison Engineer, Barrackpore Military
Engineer Services, P.O. - Barrackpore,
Kolkata-700120.
4. Garrison Engineer(A/F), Barrackpore,
P.O. Barrackpore, Kolkata-700120.
5. Garrison Engineer(North), Kolkata, 46,
B.T. Road, Kolkata-700050.
6. Garrison Engineer(I) FY, Ishapore, P.O.
Ishapore Nawabganj, Dist. 24
Parganas(North), Pin-743144.
7. Shri Monoj Kumar Rajak, Mate
Electrician (SS) office of the Assistant
Garrison Engineer, E/M (Army)
Barrackpore under Garrison Engineer,
Barrackpore, P.O. Barrackpore, Kolkata-
700120.

..... Respondents



CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A.350/1624/2019

Date of order :10.12.2020

**Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Mr. Tarun Shridhar, Administrative Member**

**PARMESHWAR SHAW & OTHERS
VS.**

**UNION OF INDIA & OTHERS
(M/O Defence)**

For the applicant : Ms. T. Das, counsel

For the respondents : Mr. S. Paul, counsel

ORDER

Bidisha Banerjee, Judicial Member

This O.A. has been preferred by the applicant to seek the following reliefs:-

- "a) Let the applicants be allowed to move this application jointly under same cause of action under Section 4(5)(a) of the C.A.T.(Procedure)-Rules, 1985;
- b) An order do issue quashing the Office Order dated 03 May 2016 as set out in Annexure A-9 to this application;
- c) An order directing the official respondents to revise the impugned seniority list of Chowkidar of the office of the Commander Works Engineer(S), Barrackpore published in 2009 and 2013 antidating the seniority of the applicant with effect from 21.01.1993 along with the benefits of pay at par with arrear from the date of joining as Chowkidar;
- d) An order do issue directing the Respondent to extend the benefit of the judgment dated 30.04.2013 issued by Hon'ble C.A.T. in favour of the applicants;
- e) An order do issue directing the Respondents to extend the benefit of the judgment in O.A.No.350/637 of 2015 dated 04.04.2019 issued by Hon'ble C. A.T, Kolkata Bench in favour of the applicants;
- f) An order directing the respondents to produce/cause production of all relevant record;
- g) Any order and/or further order or orders as the Hon'ble Tribunal may deem fit and proper."

2. Ld. counsels were heard and records were perused.

3. At hearing it transpired that the applicant is aggrieved with an impugned order dated 13.05.2016 which is extracted hereunder for clarity:-

Tele Mil : 3260
Tele Civ : 033-25923452
FAX No : 033-25923452

Military Engineer Services
PO : Barrackpore
Kolkata -700 120

1817/CS/ 64 /E1 (Legal)

13 May 2016

Shri Parmeswar Shaw

Shri Late Samanta Shaw

20/27, Satid Sonami, Kaliomibas

PO: Nona - chandarpukur, Dist: 24 Parganas (North),
Kolkata - 700 122.



OA NO 350/01264 OF 2015: FILED BY CHANDAN SARKAR & OTHERS
Vs UOI AND OTHERS AT CAT KOLKATA

1. Ref yours representation dated 29 Mar 2016.
2. Please note that you were appointed by the Dept in compliance of Hon'ble CAT Calcutta order dt 14 Feb 1996 against OA No 408 of 1991 filed by Shri Manoj Kumar Rajak. The operative part of the above Hon'ble Court order is as follows (para 24):

"In overall circumstances of the case, therefore, we are of the view that the petitioners though worked continuously for slightly less than 310 days but spread over two calendar years and that they had been originally recruited through employment exchange, they are not entitled to the reliefs they have prayed for. Keeping, however, all facts in view, we dispose of the case with the order that as and when the respondents shall make any regular appointment to the posts of Chowkidars, they shall give prior preference to the petitioners & the context of the their past experience and during such consideration for future selection, if any of the petitioners becomes age barred under the normal ruled, such age disqualification shall be disregarded as a special case. Similarly, if in future the respondents appoint any Chowkidar on casual basis or on muster roll basis, they would give due preference to the present petitioners in respect of such casual appointments.

3. The Hon'ble CAT Calcutta bench order dated 14 Feb 1996 has not mentioned any relief with regard to fixing of pay and allowances, retrospectively wef Jul 1993 i.e the date of appointment of Shri Manoj Kumar Rajak. In compliance to the above judgment you were appointed to the post of Chowkidar during May 1999 through normal recruitment process taking into account your experience of the posts. Therefore, you are not entitled to any retrospective seniority and consequently benefits.

4. In view of the above, no relief as regard to seniority w.e.f 21.01.1993 is admissible.

5. Please ack.

(Manoj Kumar, IDSE)

CWE (S) Barrackpore

4. Ld. counsel for the applicant would submit that a batch of Chowkidars who rendered service intermittently from 15.06.1990 to 22.04.1991 and acquired temporary status approached this Tribunal in O.A.No.350/637/2015 [Sudhangshu Pandit & Others vs. Union of India & Others(M/O Defence)], seeking seniority from the date one Monoj Kumar Rajak was granted seniority i.e. from 21.01.1993. The O.A. was disposed of on 04.04.2019 with the following order:-

"6. Accordingly the O.A. is disposed of with a direction upon the respondents to accord a personal hearing to the applicants , assign their seniority appropriately and revise the seniority list of Chowkidars within a period of 3 months from the date of receipt of a copy of this order, taking due notice of the fact that they have revised seniority of subsequent batch on the basis of availability of vacancies from a date earlier to their assigned seniority of 1999, as evident from the Seniority List. The respondents shall accord the seniority in accordance with the batch year of their engagement and if required shall give notice to the Chowkidars who may be affected in the event the present applicants deserve to be interpolated in the existing seniority list. No costs."

Pursuant to the said order, a speaking order was issued granting seniority w.e.f. 1993, instead of originally assigned seniority of 1999 which is as under:-



SPEAKING ORDER

MES-281740 Shri Sudhangshu Pandit, Chowkidar (now Refg Mech SK)
 s/o Late Krishna Chandra Pandit, Vill : Garulia, Dakshin Para,
 PO : Garulia, Dist : North 24 Parganas, PIN : 743133 (WB)

Through GE(AF) Barrackpore

IMPLEMENTATION OF HON'BLE CAT, KOLKATA BENCH ORDER DATED 04 APRIL 2019 UNDER OA NO 350/637 OF 2015 FILED BY SHRI SUDHANGSHU PANDIT & OTHERS VS UNION OF INDIA AT CAT KOLKATA

With reference to the OA No.350/637 of 2015 filed by you & eleven Others at the Hon'ble CAT Bench on 21 Oct 2015 concerning the aforesaid, with the following relief:

(a) Direction to the respondents to consider the prayer for grant of benefits of pay and allowances at par with the counterpart of Shri Manoj Kumar Rajak w.e.f 08 Mar 1999.

The Hon'ble CAT, Kolkata Bench vide Para 4, 5 & 6 of its order dated 04 Apr 2019 has decided the following:

(a) With the direction that the respondents to consider the grievance of the applicants giving them personal hearing and to decide their claim for grant of pay & allowances and other arrears at par with the counterpart Shri Manoj Kumar Rajak.

(b) OA is accordingly disposed of. No cost.

In compliance of Hon'ble CAT, Kolkata Bench order 04 Apr 2019, your representation case for grant of seniority w.e.f 08 Mar 1999 has been reconsidered and following emerges:

(a) Personal hearing was held on 14 Jun 2019.

(b) The date of appointment of Shri Manoj Kumar Rajak is 21 Jul 1993. Anti-date of seniority will be fixed w.e.f 21 Jul 1993. Arrear, if any, will be applicable as per actual date of appointment.

(c) In the revised seniority List your name has been established in serial 38 and approved by the undersigned.

(d) Part-II Order to this effect being published and pay bill regarding arrears of pay and allowances for the period from 08 Mar 1999 will be prepared and paid after audit verification by the AAO (PC) Kolkata.

4. With the issue of this Speaking Order, Hon'ble CAT, Kolkata Bench Order dt 04 Apr 2019 under OA No 350/637 of 2015 stands complied with.

File No.: 1416/1/SR-CAT/39/ E1C (2)

CWE (Suburb) Barrackpore

Military Engineer Services

PO : Barrackpore

Kolkata - 700120

(R Ravi)

Colonel

CWE (Suburb) Barrackpore

21 Jul 2019

13



D.O. No. 34 Dt. 26 Aug 2019

Sl. No.	Name	Design.	Effective Date	Particulars of Casualties	
3	4	5	6		
PART-III (Contd.)					
REVISION OF SENIORITY WITH CONSEQUENTIAL FINANCIAL BENEFITS					
04	281743	Shri Sukumar Mallick (SBC)	MTS (Gen)	21/07/1993 08/03/1999	Seniory is revised wef 21 Jul 1993 at per with the counterparts of MES-208531 S. Manoj Kumar Rajak, Chowkider (Now Elect HS-II) with the financial benefits of Pay & Allowances effect from 08 Mar 1999 that is with the Basic Pay of Rs. 2720/- in the Pay Scale of Rs. 2550-55-2660-60-3200/- as drawn by MES-208531 Shri Manoj Kumar Rajak, Chowkider (Now Elect HS-II) with the next increment accordingly. Authy: HQ-CWE (S) Barrackpore Speaking Order No 1416/1/SR-CAT/40/EIC (2) dt 26 Jul 2019 & letter No 1416/1/SR-CAT/50/EIC (2) dt 26 Jul 2019.
05	281729	Shri Bedal Chandra Das (SBC)	MTS (Gen)	21/07/1993 08/03/1999	Seniory is revised wef 21 Jul 1993 at per with the counterparts of MES-208531 S. Manoj Kumar Rajak, Chowkider (Now Elect HS-II) with the financial benefits of Pay & Allowances effect from 08 Mar 1999 that is with the Basic Pay of Rs. 2720/- in the Pay Scale of Rs. 2550-55-2660-60-3200/- as drawn by MES-208531 Shri Manoj Kumar Rajak, Chowkider (Now Elect HS-II) with the next increment accordingly. Authy: HQ-CWE (S) Barrackpore Speaking Order No 1416/1/SR-CAT/40/EIC (2) dt 26 Jul 2019 & letter No 1416/1/SR-CAT/50/EIC (2) dt 26 Jul 2019.
LEAVE					
06	208397	Shri Jitendra Nath Das (SBC)	CMD-I	25 Jul 19 (FN) 20 Aug 19 (FN)	Granted EL for 26 days wef 25 Jul 2019 (FN) to 19 Aug 2019 (AN). Rejoined duty on 20 Aug 2019 (FN). Leave at credit: EL = 289 days & HPL = 556 days.
(Part-III end with Sl. Nos. 03 to 06 only)					
PART-IV					
FAMILY EVENT: BIRTH OF FIRST CHILD (A FEMALE BABY)					
07	283667	Shri Ravi Khalkho (SBC)	Elect (HS-II)	26/12/18	Smt. Vinita Topo, W/o = Shri Ravi Khalkho gave birth to their first child a female baby, named 'Shri UTI KHALKHO' on 26 Dec 2018 at Rajendra Institute of Medical Science, Ranchi. (Authy: Birth Certificate Regn. No. B-2019-20-90084-000131 dated 15 Jan 2019 issued by Deputy Superintendent-cum-Registrar of Birth & Death, Rajendra Institute of Medical Science, Ranchi on behalf of Planning cum Finance Department (Planning Division) (Directorate of Economics & Statistics), Govt. of Jharkhand issued under Section 12/17 of the RBD Act, 1969 and Rule 8/13 of the Jharkhand Registration of Births & Deaths Rules 2009).
REVISION OF SENIORITY WITH CONSEQUENTIAL FINANCIAL BENEFITS					
08	281740	Shri Sudhangshu Pandit (SBC)	Refg Mech (SK)	21.07.1993 08.03.1999	Seniory is revised wef 21 Jul 1993 at per with the counterparts of MES-2033 S. Shri Manoj Kumar Rajak, Chowkider (Now Elect HS-II) with the financial benefits of Pay & Allowances effect from 08 Mar 1999 that is with the Basic Pay of Rs. 2720/- in the Pay Scale of Rs. 2550-55-2660-60-3200/- as drawn by MES-2033 Shri Manoj Kumar Rajak, Chowkider (Now Elect HS-II) with the next increment accordingly. Authy: HQ-CWE (S) Barrackpore Speaking Order No 1416/1/SR-CAT/40/EIC (2) dt 26 Jul 2019 & letter No 1416/1/SR-CAT/50/EIC (2) dt 26 Jul 2019.
(D.K. Mishra) AEE/M AGE-E/M For GC (AF) Barrackpore					



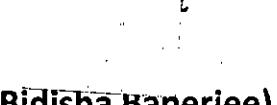
5. Ld. counel for the applicants citing the aforesaid decision would seek identical benefit of revision of seniority w.e.f. 1993 instead of 1999, for the applicants.

6. It is discernible from the enumerations supra that, indubitably and admittedly the Chowkidar named Sudhangshu Pandit who was engaged on casual basis in 1990 and continued till 22.04.1991 and ^{W.C.B} appointed in the year 1999 alike the present applicant, was granted seniority w.e.f. 1993 on par with Manoj Rajak. Therefore, in all fairness the respondents should grant identical benefits to the present applicants.

7. Having noted the implementation of the order passed in O.A.350/637/2015 filed by Sudhangshu Pandit & Others (as extracted supra) and having noted the contention that the applicant is identically circumstanced to that of Sudhangshu Pandit, for parity of reasons, we quash the impugned order dated 13.05.2016 as contained in Annexure A/9 to the O.A. and remand the matter back to the authorities to consider the claim of the applicants and issue orders identical to that of Sudhangshu Pandit dated 26.07.2019 and 26.08.2019, in the event nothing stands in the way. Let orders be issued within three months.

8. The present O.A. accordingly stands disposed of. No costs.


(Tarun Shridhar)
Administrative Member


(Bidisha Banerjee)
Judicial Member