

(1) CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 13 DAY OF APRIL, 1996

HON. MR.JUSTICE B.C.SAKSENA, V.C.

HON.MR.S.DAS GUPTA, MEMBER(A)

Original Application No. 681 of 1989

1. G.P. Singh Pass No.1/1450 PA No.23360
Trade-Elect(CA) Selection E.R.S
No.1 B.R.D, A.F.Station, Kanpur-208008
2. N.D.Hazra son of late A.K. Hazra
Pass No.1/1034 PA No. 22609 Section
E.R S.No.1 B.R.D, A.F.Chakeri Kanpur
3. S.K. Gupta Pass No.1/1092 PA No.
24247 Trade Inst/Rep 1 Section I.R.S
Unit No.1 B.R.D A.F.Station,
Chakeri, Kanpur.
4. R.N. Prasad Pass No.1/1091 PA No.
24246 Trade Inst/Rep 1 Section
I.R.S. No. 1 B.R.D A.F. Station,
Chakeri, Kanpur.
5. P.C. Verma Pass No.1/1494 PA No.
24897 Trade Inst/Rep 1 Section
I.R.S No.1 B.R.D A.F. Station, Chakeri
Kanpur.
6. B.B. Sharma Pass No.1/1490 PA No
24835 Trade Inst/Rep 1 Section
I.R.S No.1 B.R.D A.F. Station,
Chakeri Kanpur.

Applicants

Versus

1. Union of India, through the
Secretary, Ministry of Defence
Government of India, New Delhi
2. Chief of Air Staff, Vayu
Bhawan, New Delhi
3. AOC-In-C HQ Maintenance
Command. Indian Air Force,
Nagpur
4. Commanding Officer, No.7
Base Repair Depot, Air Force
Station Chakeri, Kanpur

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5. P.R. Pandey Pass No. 1/1090
PA No. 24245 Trade Inst/Rep 1(Mem)
Section 1 R.S. No.1 B.R.D
A.F. Station Chakeri, Kanpur.
6. Yogesh Chandra Pass No.1/1485 PA No
24830 Trade Ins/Rep 1 Mem
Section I.R.S No.1 B.R.D,
A.F. Station, Chakeri Kanpur
7. M.N. Panth Pass No.1/1100 PA No
24486 Trade Ins/Rep Mem Section
9H No.1 B.R.D, A.F. Station
Chakeri Kanpur-208008
8. A.R. Choudhary Pass No.1/1486
PA No. 24831 Trade Inst/Rep 1 Mem
Section 1 R.S. No. B.R.D
A.F. station Chakeri, Kanpur
9. Bishan Singh Pass No. 1/1088 PA No
24243 Trade Inst/Rep 1 Mem Section
12H No.1 B.R.D A.F.Station
Chakeri, Kanpur.
10. Gurbachan Singh Pass No.1315
PA No. 12152 Trade Sec(A) Mem Sec. 15 H
1 B.R.D A.F. Station, Chakeri, Kanpur
11. K.L. Narula Pass No.1/857 PA No.
13223 Trade Sec(A) mem Sec
9H No.1 B.R.D A.F. Station
Chakeri, Kanpur.
12. O.P. Pandey Pass No.1/1035 PA No.
22610 Trade Sec(A) MCM Sec. 12 H No.1
B.R.D.,A.F.Station, Chakeri Kanpur.
13. D.K. Gupta Pass No. 1451 PA No. 23361
Trade Slect 1(A) Mem Section E.R.S
No.1 B.R.D A.F. station,
Chakeri, Kanpur.

Respondents

Alongwith

Original Application No.682 of 1989

1. K.P. Maulekhi, Elect. 1 RT/980
A.P.No. 23585, R-29, 101 Block
No.4, B.R.D, Air Force, Chakeri
Kanpur, r/o 185/3 J.K.
Colony, Kanpur.
2. D. Dubey, A/C Mech.(E-1), RT/850
PA No.24695, A.E.W.A Ring Room
8 Hanger 4 BRD, Air Force, Chakeri
Kanpur, r/o 177/3 J.K. colony, Kanpur

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3. S.K. shukla, A/c Mech E-1, RT/825
PA No. 21728, P.C.O 2, AEW 8
Hangar 4 BRD, Air Force Chakeri Kanpur
r/o 202C, Harjinder Nagar,
4. N.G. Sen, A/C Mech E-1, RT/830
PA No., 22962, AEW A Ring Room
4 BRD A.F. Chakeri, Kanpur
r/o 202 A Harjinder Nagar
Ist, Kanpur-7
5. Ram Swaroop, RT/829, P.A. No. 22360
PMSB No. 4 BRD, AF, R/o 157 B,
Gau Khera, Kanpur.
6. Vishwa Mitra, RT/806, PA No.
18539, AEW Cleaning Bay,
8 Hangar No. 4 BRD, AF, Chakeri Kanpur
R/o 147/4 J.K. Colony Kanpur.
7. S.K. Bose, A/C Mech.(E-1),Rt-831
PA No. 22963, R-29, 101 Block 4 BRD
A.F. Chakeri, Kanpur R/o 1/120
Bengali Colony, Harjindar Nagar
Kanpur.
8. Madan Lal Bhatia, A/c Mech.
(E), RT/1064, PA No. 19143, AEW
Viper Line 8 Hangar 4 BRD, AF
Chakeri, Kanpur, resident of
Block No. 383 Qtf. No.5, Shastri
Nagar, Kanpur Nagar
9. Ram Pal Singh, A/C Mech.(E) RT/757
PA No. 9436, AEW Viper Line
8 Hangar 4 BRD, AF, Chakeri
Kanpur, resident of 119/199 Om
Nagar, Dashanpurwa, Gumti No.5
Kanpur.
10. U.N. Gangoli, Air Frame Mechanic
RT/1099 PA No. 19167 GERS,
5 Hangar, 4 BRD, Air Force,
Chakeri, Kanpur, r/o 1022 Naubasta Machharia
Road, Kanpur.
11. S.K. Aggarwal, A/C Mech(E) RT/872
PA No. 24559,R-29, 4 BRD,AF
Chakeri, kanpur, resident of 35
Jeewan Garden, Krishna Nagar, Kanpur.
12. Kishan Chand, A/C Mech(E) 1 RT/828
4 B.R.D, Air Force Station, Kanpur.

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13. Prem Kumar, s/o late Basant Ram
43 years, 4 B.R.D Air Force
Station, Kanpur.

Applicants

BY ADVOCATE SHRI G.C. BHATTACHARYA

Versus

1. Union of India through the Secretary
Ministry of Defence, Govt. of India
New Delhi.
2. Chief of Air Staff, Vayu bhawan
New Delhi
3. A.O. N-C headquarter Maintenance
Command, Indian Air Force, Nagpur.
4. Commanding Officer, No.4,
Base Repair Depot, Air Force
Station, Chakeri, Kanpur.
5. D.N. Singh, Pass No. RT/899
MCM Elect(1)
6. Nathu Ram, Pass No. RT/862
MCM, MTSO(RS-1)
7. P.L.Gupta, Pass No.RT/1054
MCM, A/c Mech(A) 1
8. Trilok Singh, Pass No.RT/868
MCM, A/C Mech(A)
9. Baij Nath, pass No.RT/1047
M.C.C A/C Mech.(E) 1
10. B.S. Taneja, Pass No. RT 867
MCM, A/C Mech.(E) 1
11. Mohd. Safiq, Pass No. RT 823,(Sup/71) MCM
A/C Mech.(E) 1
12. J.L. Bhatia, pass No. RT/1078
Elect. 1
13. Surjit Singh, Pass No. RT/407
MTSO
14. P.M. Ram, Pass No. RT 973, MTSO
15. B.L.Shah, Pass No. RT/887 MTSO
16. S.C. Roy, Pass No.A/c
Mech (E) 1
17. Sayeed Ahmad, pass No. RT/848
A/C Mech(E) 1

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18. M.P. Nigam, Pass No. 822
A/C Mech.(E) 1

From Serial No. 5 to 18 are all C/o
No. 4 B.R.D, Air Force Station,
Chakeri.

BY ADVOCATE SHRI N.B. SINGH

O R D E R (Reserved)

JUSTICE B.C. SAKSENA, V.C.

These two OAs involve common questions of law and fact and are being disposed of by this common order. The applicants in both the OAs are challenging order dated 14.1.89 reverting the applicants from the post of Master Craftsman to the post of Highly skilled Gr. I of the trade concerned w.e.f. 1.10.1982 and revising their pay from the scale of Rs.1400-2300 to Rs.1320-2040.

2. The applicants case is that they were selected by duly constituted Departmental Selection Committee and were promoted and appointed as Master Craftsman w.e.f. 1.10.1982 under orders passed by the Govt of India Ministry of Defence order dated 21.9.82 and order dated 5.7.84 and subsequently their pay were fixed under the authority of Govt. of India, Ministry of Defence order dated 15.4.85. The applicants were ordered to be reverted on the basis of a judgment dated 11.2.1988 passed by a Division Bench of this Tribunal in OA 195/86 P.S.Nigam Vs. Union of India and Ors.

3. These applicants had not been arrayed as respondents in OA No. 195/86 aforesaid and the other persons had been arrayed as respondents 5 to 14 who had promoted as Master Craftsman w.e.f. 1.10.1982. However, from a perusal of the order passed in OA 195/86 we find the following operative order:

" we set aside the proceedings of the
Departmental Promotion Committee.

A De novo assessment has to be
made on the eligible candidates and
the Confidential reports for the
due period should also be considered
alongwith the assessment reports so that
the Departmental Promotion Committee
may be able to moderate the reports
where necessary and then select persons
for the Master Craftsman posts."

4. The applicants case is that the decision in OA 195/86 is not a judgment in Rem but a judgment in personam. In any event it is pleaded that the ~~said~~ judgment which has been rendered without impleading the present applicants could not have effected their selection and promotion as Master Craftsman. It is also pleaded that the said judgment did not direct reversion of the present applicants.

5. As noted hereinabove, the entire proceedings of the Departmental Promotion Committee on the basis of which the applicants had been promoted earlier have been set aside. The record of OA 195/86 shows that the six applicants of OA 681/89 had been arrayed as respondents in OA 195/86.

6. In the counter affidavit in paragraph 8 this fact had been averred. In the rejoinder it has not been disputed but however we have checked up the same from OA 195/86. That record further discloses that many of the present applicants also filed application seeking recall of the order passed in the OA. At the bar the learned counsel for the applicant stated before us that the said

application seeking the recall had been rejected. Thus the plea indicated in para 4 hereinabove is based on factual inaccuracy. The learned counsel for the applicant next submitted that even if some of the present applicants were parties in the earlier OA are challenging the fresh proceedings of the Departmental Selection Committee. The applicants in their relief clause have not challenged the fresh Departmental Selection Committee proceedings and have not sought any relief against the same.

7. The respondents in their counter affidavit have indicated that after the decision in OA 195/86 P.S. Nigam Vs. Union of India a fresh Departmental Selection Committee was constituted at Head quarter M.C.I.A.F after obtaining proper authority from Air H.Qs/Govt within the time limit and other directions as given in the said judgment. In the second D.P.C some MCMs selected by the first D.P.C could not come up to the required standard in comparison to the other candidates on merits and hence were not selected in the second time and consequently they had to be reverted to their original trade. The respondents have also taken the plea that the fresh Departmental Selection Committee was held at the H.Qs level and not at the district level as per the directions in the order passed in OA 195/86 and assessment reports for a period of 5 years i.e. to say from 1978 to 1982 were considered and recommendations were forwarded by respective units and all eligible candidates for consideration. In respect of the allegation that respondent P.R.Pandey, Yogesh Chandra, Bisham Singh and O.P. Pandey had not done any technical job. The respondents have indicated that these persons were

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employed by the technical section commander and in the jobs they were found suitable and their technical knowledge would satisfactorily be utilised. As regards recovery of pay for the period they were ~~posted~~ ^{responsible} as MCM it has been stated in the counter affidavit that the matter has been taken up with the Higher authorities for consideration and it has been recommended that the recovery should not be effected. The impugned order itself clearly stipulates that no recovery is to be effected till further orders.

8. In view of the above, since the fresh Departmental Selection Committee has been held in the light of the directions given in the order passed in O.A. 195/86 and since we are exercising concurrent jurisdiction and cannot sit in appeal over the earlier decision, we are not persuaded that any case for grant of relief is made out.

9. The O.As lack merit and are accordingly dismissed. Cost easy.

I. SRA(A):

VICE CHAIRMAN

Dated: 13.5.1996

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