

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Allahabad this the 25th day of August, 2000.

Original Application no. 1754 of 1992

Hon'ble Mr. S.K.I. Naqvi, Member-J
Hon'ble Mr. M.P. Singh, Member-A

1. Karnail Singh, S/o Late Rasil Singh, presently posted as Chargeman Grade-I Non Technical in the Field Gun Factory, Kanpur.
2. Sri Ami Chand, S/o Late Shanker Lal, presently posted as Chargeman Gr-I Non Technical, in Field Gun Factory, Kanpur.
3. Sri S.P. Sharma, S/o Sri Kishori Lal, presently posted as Chargeman Gr-II, Non Technical in Field Gun Factory, Kanpur.
4. Sri G.P. Singh, S/o late R.N. Singh, posted as Chargeman Gr-II, Non Tech. in Field Gun Factory, Kanpur.

... Applicants

C/As Sri S. Agarwal

Versus

1. The Union of India through Secretary, Ministry of Defence, New Delhi
2. The Ordnance Factory, Board, 10-A Auckland Road Calcutta through its Chairman.

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3. The General Manager, Field Gun Factory, Kalpi Road, Kanpur.
4. Sri B.C. Mishra, Office Supdt. Gr-I Posted in Ordnance Equipment Factory Kanpur.
5. Sri M.W. Siddique, Office Supdt. Gr-I, Posted in Ordnance Equipment Factory, Kanpur.
6. Sri R.K. Katiyal, Office Supdt. Grade I, Posted in Ordnance Parachute Factory, Kanpur.

... Respondents

C/Rs. sri Ashok Mohiley

ORDER

Hon'ble Mr. M.P. Singh, Member-A.

The applicants four in number have filed this OA under section 19 of the Administrative Tribunals Act, 1985, praying for preparation of a seniority list of the incumbents constituting feeder grade for promotion of the post of Foreman based on the date of appointment to the post of UDC.

2. The brief facts of the case are that the applicants were appointed as UDCs on different dates between the period from 10.05.69 to 09.05.72. According to the existing rules, the UDCs are eligible for promotion to the grade of Foreman (Rs. 2000 - 3200) through two different channels, one channel of promotion is through

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supervisor 'A', Chargeman II, Chargeman I and the other is through OS Gr-II and OS Gr-I. Thus the incumbents promoted to the cadre of Supervisor 'A' grade had to undergo three steps to reach the higher scale and the incumbents promoted in the cadre of OS Gr-II had to undergo only two steps to reach this higher scale. As a result of it, two unequal and different channels used to be the feeder cadre for promotion to the post of Foreman. The persons senior in the cadre of UDC when reached to the post of Chargeman Grade I take more time in comparison to the junior UDCs who got promotion in the grade of OS Grade II and reached the highest scale for promotion to the post of Foreman. The meeting point of two different channels of promotion is that of post of Foreman (Non Technical), for which Chargeman Grade I with three years regular service and OS Gr-I with three years regular service constitute the feeder cadre under Indian Ordnance Factory Group 'C' Supervisors and non gazetted cadre (Recruitment and condition of service) Rules, 1989. Because of this disparity, the applicants who were much senior to respondent no 4, 5 and 6 in the grade of UDC became junior to them subsequently. The applicant submitted several representations individually as well as through thier association.

3. The matter was raised by certain persons by filing Writ Petition no. 2490 of 1983 at Jabalpur High Court which subsequently stood transferred to the Jabalpur Bench of CAT and was decided and was allowed by the Tribunal vide their judgment dated 14.4.87. The respondents instead of implementing the aforesaid

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judgment to the entire service, as a whole, have confined the same to the incumbents involved in the said case and are still going ahead by preparing separate seniority list of the OS Gr-I and Chargement Gr-I by taking length of service of the incumbents on the above two posts of Chargeman Gr-I and OS Gr-I. As a result of it the persons senior in the initial cadre of UDC are being superseded on fully fortutuous circumstances. Aggrieved by this , the applicants have filed this OA seeking following reliefs :-

- i. to issue a mandamus directing the respondents to prepare common seniority list of Chargeman Gr-I and Office Supdt. Gr-I maintaining the inter-se-seniority of the Upper Division Clerks from the date of appointment in the grade of Upper Division Clerks and thereafter to consider the incumbents for the post of Foreman in accordance with the rules.
- ii. to issue a mandamus directing the respondents no. 1, 2 and 3 to give benefit of judgment of Hon. Jabalpur bench of the Tribunal in T.A. no. 30/86 Shashi Kant and others Vs. Union of India and others decided on 14.4.87.
- iii. to issue a mandamus directing the respondents no. 1, 2 and 3 to consider the applicants for promotion to the post of Foreman treating them senior to respondents no. 4 to 6 in the feeder cadre.
- iv. to issue any other direction as this Hon. Tribunal may deem fit and proper in the circumstances of the case.
- v. to award costs throughout to the applicants.

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4. The respondents have contested the case and have stated that as per recruitment rules, 1989, the post of Foreman is to be filled up by promotion from Chargeman Gr-I or equivalent with three years regular service in the grades in the respective category. The prayer made by the applicants that at the time of promotion to Foreman/NT, the date of holding the post of UDC should be taken into account for fixing inter-se-seniority will be contrary to the provisions of recruitment rules framed under article 309 of the Constitution. According to them the applicants had given their willingness in writing for promotion to the post of Supervisor 'A', before they were promoted to the post. They have admitted that Hon'ble Jabalpur Bench of CAT had delivered a judgment dated 14.4.87 in TA 36/86 and the present applicants were not parties to the said petition. In view of the facts mentioned in the CA the applicants are not entitled to any relief and the present OA being misconceived is liable to be dismissed.

5. Heard learned counsel for the rival contesting parties and perused the record.

6. From the record placed before us we find that the applicants were appointed to the post of UDC between the period from 10.05.69 to 09.05.72 whereas the respondents no. 4 to 6 were appointed to the post of UDC on 01.04.1974. Applicants no. 1 and 2 were promoted to the post of Chargeman Gr-I on 14.08.92 which is the feeder grade for promotion to the post

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of Foreman. On the otherhand respondents no. 4 to 6 were promoted to the post of OS Gr-I on 07.05.84 which is equivalent to the post of Chargeman Grade I and is also a feeder cadre for promotion to the post of Foreman/NT. The applicants nos 3 and 4 are still holding the post of Chargeman Gr-II which is a lower post in the stream of Chargeman. The contention of the respondents that the applicants had given their willingness in writing for promotion to the post of Supervisour is not tenable on the ground that if the applicant had not given their willingness for promotion to the grade of Supervisor 'A' ^{been} they would have ^{been} debarred for further promotion to the higher grade as per rules.

7. It has been contended by the applicants that the same matter was agitated before the Jabalpur Bench of CAT, which was allowed by the Tribunal vide its judgment dated 14.4.87. The respondents vide para 25 of their reply have admitted this fact and have stated that the applicants were not the parties of the said petition. It is not in dispute that the facts and circumstances of the case in TA 30/86 were the same as mentioned in the present OA. Since the judgment dated 14.4.87 of the Jabalpur Bench of CAT has already been implemented it would be just and fair that if the same benefits are extended to the applicants of the present OA. In view of this position the directions are required to be given to the respondents to give the same benefits to the applicants which were given to the similarly situated

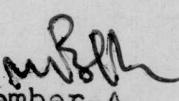
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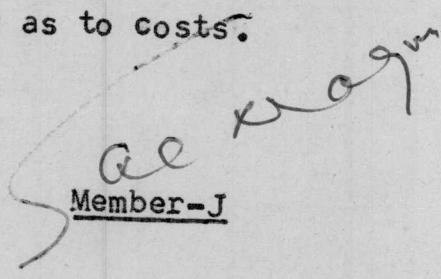
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persons while implementing the judgment of the Jabalpur Bench of CAT.

8. In the light of the above discussion the OA is allowed and the respondents are directed to extend the same benefits to the applicants which were given to the persons while implementing the judgment dated 14.4.87 of the Jabalpur Bench of CAT in TA 30/86 within a period of four months from the date of communication of this order.

9. There shall be no order as to costs.


Member-A


Member-J

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