

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 30th day of July 2001.

Original Application no. 1924 of 1994.

Hon'ble Mr Justice RRK Trivedi, Vice-Chairman  
Hon'ble Maj Gen KK Srivastava, Administrative Member

1. Vishwa Nath Srivastava, S/o late KL Srivastava, R/o MIG-456, Kailash Vihar, Asstt. Foreman P&PX(A) Station, Ordnance Factory, Kanpur.
2. Rajendra Narain Mehrotra, S/o late BN Mehrotra, R/o Qr no. E-8 Armapore Estate, Kanpur, Presently employed as Asstt. Foreman/OFTI, Ordnance Factory, Kanpur.
3. Mahipal Singh Raghuwanshi, S/o late Budh Singh, R/o Qr R No. PA-19, South Estate, Ordnance Factory, Murad Nagar, Distt. Ghaziabad, presently employed as Assistant Foreman (Mech.) Ordnance Factory, Muradnagar.
4. Vijendra Singh, S/o Sri Brahm Singh, R/o Qr. No. QA/68, Ordnance Factory Estate, Muradnagar, Distt. Ghaziabad, presently employed as Asstt. Foreman/TT Section, Ordnance Factory, Muradnagar.

... Applicants

C/As Sri NK Nair, Sri MK Updhayaya

Versus

1. Union of India through the Secretary Ministry of Defence, Department of Defence Production, Govt. of India, New Delhi.
2. Chairman, Ordnance Factory Board/Director General of Ordnance Factories, 10-A Auckland Road, Calcutta.
3. General Manager, Ordnance Factory, Kanpur.
4. General Manager, Ordnance Factory, Muradnagar.

... Respondents

C/Rs. Sri A. Sthalekar  
Km. Sadhana Srivastava

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O R D E R

Hon'ble Mr. Justice RRK Trivedi, VC

By this OA under section 19 of the AT Act, 1985 the applicants have prayed for direction to the respondents to grant them benefit of re-fixation of pay in the higher scale of Rs. 550 - 750 (3rd Pay Commission) in place of lower pay scale of Rs. 425 - 700 w.e.f. 1.7.1974 or the date of rejoining after completion of Instructors Training by the applicants with all consequential benefits at par with the similar benefits as have been granted to the similarly placed employee Sri RP Sehgal as a consequence of the judgment in the case OA no. 251 of 1991.

2. The facts in short are that the applicants nos 1 to 3 were serving as Supervisor (A) Technical and applicant no. 4 was serving as Draftsman in Ordnance Factories at different places. They were sent to undergo Instructors Training Course in the 10th batch of Ordnance Factories Training Institute, Ambarnath. One of the conditions of the Instructors Training Course was that after successful completion of the training the employees concerned shall be placed in the next higher grade than the grade held by them. The grievance of the applicant is that though they completed their training successfully, but they were not given next higher grade for which they were entitled. Learned counsel for the applicant has submitted that in similar circumstances one Sri RP Sehgal filed OA 251 of 1989 before this Tribunal and by order dated 22.1.1993, Sri Sehgal was given the benefit of the pay scale of Rs. 425 - 700 w.e.f. 1.1.1973. It is claimed that the applicants are also entitled



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for the same relief. Reliance has been placed in the judgment of the Hon'ble Supreme Court in case of UP State Mineral Development Corporation Ltd & Ors Vs. Vijay Kumar Updhyaya & Ors 1997 SCC (L&S) 1247.

3. Sri A. Sthalekar learned counsel for the respondents on the other hand <sup>Through,</sup> has not disputed the <sup>factu</sup> factual aspect of the case, but has seriously opposed the claim of the applicant on the ground of limitation. It is submitted that Sehgal's case was filed in the year 1989. The applicants never expressed <sup>their</sup> ~~his~~ grievance till the judgment was delivered on 22.1.1993, they filed this OA on 19.12.1994, thus the relief claimed is highly time barred as it has been claimed after 20 years and OA is liable to be rejected. It is also submitted that the judgment in RP Sehgal's case (supra) was a judgment in personam and was not <sup>in</sup> rem and the applicant's cannot claim any benefit on the basis of that judgment. Sri A. Sthalekar has placed reliance in a Full Bench judgment of this Tribunal in case of Jacob Abraham & 12 ors Vs. Union of India & Ors, 1994-1996 Full Bench Judgments pg. 68. ~~in view of the fact that the same was decided by the learned Jt. Judge~~

4. In view of the submissions made by the learned counsel for the parties. The question for decision <sup>is</sup> as to whether the applicants are entitled for relief claimed in respect of the pay scales w.e.f. 1.7.1974. The counsel for the applicant has placed reliance on the judgment of the Hon'ble Supreme Court. However, the question of



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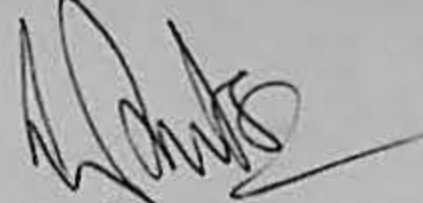
limitation was not at all involved before the Hon'ble Supreme Court in case of UP State Mineral Development Corporation Ltd & Ors (Supra). The difficulty in implementing the judgment of High Court, pleaded before Hon'ble Supreme Court, was that Mineral Development Corporation has been handed over to private sectors.


Thus the <sup>observation</sup> ~~objection~~ of Hon'ble Supreme Court may be taken to be in context with the difficulty pleaded and <sup>in</sup> ~~for~~ the like circumstances. View of the Hon'ble Supreme Court thus does not help the applicants in the present case. The Full Bench of this Tribunal in case of Jacob Abraham (supra) after a detailed discussion and after noticing the ~~judgment~~ <sup>of</sup> various judgments of Hon'ble Supreme Court approved <sup>The</sup> view expressed by Madras Bench of the Tribunal in OA 726 of 1990. Before Full Bench the question involved was whether the applicants may be granted benefit on the basis of various decision of the Tribunal spread over a number of years and whether the law of limitation should <sup>not</sup> be applied in such cases. The Full Bench held that other decisions in similar cases cannot give a fresh cause of action, and period of limitation must be counted from the date cause of action arose. In the present case it cannot be disputed that the cause of action arose to the applicants on 1.7.1974 when they joined after completing the Instructions Training Course. They filed this OA 19.12.1994 i.e. after more than 20 years, that too only after noticing the order of the Tribunal in RP Sehgal's case. The judgment of the Tribunal could



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not give rise to any <sup>fresh</sup> cause of action to the applicant.  
The OA has been filed long after the period of limitation  
fixed by section 21 of the Act. The OA is accordingly  
dismissed as time barred. No order as to costs.

  
Member-A

  
Vice-Chairman

/pc/