

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 21st day of February 2003.

Hon'ble Mr. Justice RRK Trivedi, Vice-Chairman
Hon'ble Maj Gen K K Srivastava, Member (A)

Original Application no. 110 of 1995.

K.G. Bhatnagar,
S/o Late Sri K.L. Bhatnagar,
R/o PA 64/E, Type-IV,
Ordnance Factory Estate,
Raipur, Distt. Dehradun.

... Applicant

By Adv : Sri K.C. Sinha

Versus

1. Union of India through Secretary,
Ministry of Defence (Department of Defence Production),
South Block,
NEW DELHI.
2. Chairman, Ordnance Factory Board,
10-A, Auckland Road,
CALCUTTA.
3. General Manager, Ordnance Factory,
DEHRADUN.

... Respondents

By Adv : Sri R.C. Joshi & Km Sadhana Srivastava

ALONGWITH

Original Application no. 681 of 1995.

G.K. Garg, S/o late M.L. Garg,
Bungalow No. 28 (East),
Near Ordnance Factory Post Office,
Raipur,
DEHRADUN.

... Applicant

By Adv : Sri K.C. Sinha

Versus

1. Union of India through Secretary,
Ministry of Defence (Department of Defence Production),
South Block,
NEW DELHI.
2. Chairman, Ordnance Factory Board,
10-A, Auckland Road,
CALCUTTA.
3. General Manager,
O.P.T.O. Electronic Factory,
DEHRADUN.

... Respondents

By Adv : Sri R.C. Joshi & Km. Sandna Srivastava

ORDER

Hon'ble Maj Gen K.K. Srivastava, Member (A).

Since facts in both the OAs i.e. OA no. 110 of 1995 and

2.

OA no. 681/95 and also the relief claimed are similar, both the OAs are being decided by a common order. The leading OA being OA 110 of 1995.

OA no. 110 of 1995.

2. The facts, in short, are that the applicant joined as Supervisor 'B' (Chemist) in Ordnance Factory, Moradnagar on 20.11.1962. He was promoted to the post of Supervisor 'A' by order dated 18.4.1966, for which the Factory Part II order was published on 21.6.1966. The applicant was promoted as Officiating Chargeman Grade II (Chem) w.e.f. 1.3.1977. The applicant was further promoted to the post of Chargeman Grade I (Chem) w.e.f. 20.6.1980 in pursuance to order dated 5.6.1980. By order dated 5.4.1983, the applicant was promoted to the post of Assistant Foreman and transferred to Ordnance Factory Itarsi. In pursuance to the Moradnagar Ordnance Factory order no. 782 dated 18.4.1983, the applicant assumed the charge of Assistant Foreman in Ordnance Factory, Itarsi on 30.4.1983. By order dated 25.2.1989 the applicant was promoted to the post of Foreman and transferred to Ordnance Factory Bhandara. By Itarsi Ordnance Factory order no. 44 'A' dated 18.1.1989 the applicant's date of seniority has been fixed as Supervisor 'A' (Tech) w.e.f. 20.11.1962. By another factory order no. 50 dated 19.1.1989, the seniority of the applicant has been refixed in Chargeman Grade II (Chem), Chargeman Grade I (Chem) and Assistant Foreman (Chem) and his name has been shown at different sl nos. Through Bhandara, Factory order no. 388 dated 11.5.1999, the applicant was intimated about his notional promotion as Foreman (Tech) w.e.f. 3.7.1984. On 26.3.1993, the applicant was transferred from Ordnance Factory, Bhandara to Ordnance Factory Dehradun. The applicant was working on the post of Foreman since 1989. His seniority was recasted vide order dated 9.1.1989 and the financial benefit was also given to the applicant w.e.f. 27.3.1989. However, after lapse

3.

of about 5 years, the order was passed by respondent no. 2 on 12.1.1994 reverting the applicant from the post of Foreman to Assistant Foreman w.e.f. 21.1.1994 for which the Factory order was issued on 31.1.1994. The applicant filed a representation on 15.3.1994 against the aforesaid reversion order which has still not been decided. The respondent no. 2 also issued seniority list of Assistant Foreman on 22.6.1994. The applicant was lowered in the seniority list and the position of the applicant has been entirely changed, after more than 12 years. The applicant filed another representation in this regard on 5.8.1994 which is still pending. By means of Factory order no. 1580 dated 21.11.1994, the pay of the applicant was reduced against which the applicant filed another representation on 17.10.1994 through proper channel.

O.A. No.681 of 1995

3. The applicant is aggrieved by factory order dated 27.11.93 reverting the applicant from the post of Foreman to Assistant Foreman Electrical. The applicant joined the respondents establishment as Supervisor-A technical (Electrical) on 23.7.1964. During the course of time he was promoted to various posts and ultimately the applicant was working as Foreman Electrical on the day the impugned order dated 27.11.1993 was issued.

4. Heard Shri K.C. Sinha, learned counsel for the applicant and Shri R.C. Joshi, learned counsel for the respondents.

5. Learned counsel for the applicant submitted that the applicant in O.A. No.110/95 Shri K.G. Bhatnagar, ^{Mr.} ~~that the applicant~~ was promoted on the post of Foreman in pursuance of the judgement passed by this Tribunal Jabalpur Bench on 30.06.1987 in T.A. No.322/85 and O.A. No.104/86. The Special Leave Petition against the judgement of Jabalpur Bench passed in T.A. No.322/86 was



filed by the respondents which was dismissed in limine. Thus, the judgment of Jabalpur Bench of this Tribunal became final. The learned counsel further submitted that against the judgment of Jabalpur Bench in T.A. No.322/86 decided on 30.06.1987. Misc. Application No.24/87 was filed for review of the order/judgment dated 30.06.1987. The Jabalpur Bench of this Tribunal by order dated 07.02.1991 modified the judgment and accordingly the incumbents who had already been given promotion were not to be affected and also their seniority was not to be disturbed. It is a settled law that long continuing seniority will not be disturbed and since seniority of the applicant was re-fixed much earlier, the action of the respondents in disturbing the same at the fag end of applicant's career is illegal.

6. Resisting the claim of the applicants, the respondents have filed counter reply and the learned counsel for the respondents submitted that the Hon'ble Supreme Court delivered two judgments on 28.03.1989 and 31.03.1989 in Palaruramakrishnia Versus Union of India and K.K.M. Nair and others Vs. Union of India and, therefore, in view of the judgment of the Apex Court the respondents had to review their earlier action granting seniority and promotion to the applicants.

7. We have heard learned counsel for the parties, considered their submissions and perused records.

8. It has been stated by the applicant in para 39 of the O.A. No.110 of 1995 that the Full Bench has been constituted in view of the order passed by Jabalpur Bench of this Tribunal. On 27.01.1995, the Hon'ble Chairman presiding the Full Bench passed an order that the respondents should intimate the employees to file the petition regarding their grievance of revision and recovery from the pay by 17.2.1995 and the cases were to be finally heard on 20.03.1995 by the Principal Bench of this Tribunal. Therefore, the applicants



filed O.A's No.110/95 and 681/95. The full Bench decision was delivered on 22.12.1995 in O.A.2601/95 and other connected cases which has dealt with the present controversy of O.A. Nos.110/95 and 681/95. In our opinion, the ends of justice shall be better served if the cases of the applicants are remanded back to the respondents to decide the same in the light of Full Bench decision dated 22.12.1995 passed in O.A. No.2601 of 1995 and other connected cases.

9. In the facts and circumstances and our aforesaid observations, respondent No.2 is directed to decide the cases of the applicants within a period of two months on receipt of a detailed representation along-with the order of this Tribunal dated 22.12.1995 of Full Bench passed in O.A. No.2601 of 1995 and other connected case. The applicants are given four weeks time to file such representation.

10. For the above, the O.A. is disposed of with no order as to costs.



Member (A)



Vice-Chairman

shukla/-