

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

2

R.A.No.26/99 in O.A. NO. 84/1993

C O R A M:

HON'BLE MR. JUSTICE NEELAM SANJIVA REDDY, VICE CHAIRMAN

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

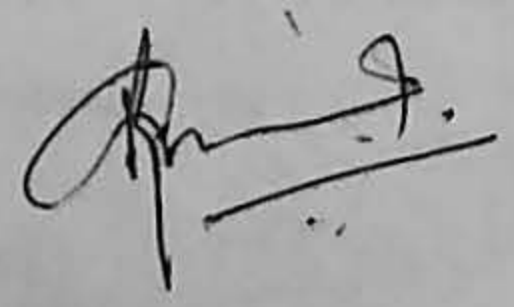
1. Union of India through Secretary
Ministry of Defence,
New Delhi.
2. Chairman,
Ordnance Factories Board,
10-A Auckland Road,
Calcutta.
3. General Manager,
Small Arms Factory,
Kanpur.

..Review Applicants

By Advocate Mr. Ashok Mohiley

Vs.

1. S.K. Chatterjee, HSW-I
son of late B. Chatterjee
resident of NT/III/80 Armapore Estate
Kanpur.
2. N.R. Chaudhary, HSW-I
son of late M.C. Rai Chkaudhary
resident of NT/III/141 Armapore Estate,
Kanpur.
3. B.H. Chaudhary, HSW-I son of late S.H. Chaudhary
resident of NT/III/200 Armapore Estate,
Kanpur.
4. U.N. Mandal, HSW-I
son of late B.B. Mandal
resident of NT/III/58 Armapore Estate
Kanpur.
5. S.S. Sodhi, HSW-I, son of Shri Sujib Singh Sodhi
resident of 311/3, Lal Colony,
Juhi, Kanpur.
6. Devendra Pal, HSW-I
son of Shri Dharam Pal
resident of 1356-A, Ratan Lal Nagar,
Kanpur.
7. A.S. Reshil, HSW-I son of Shri Thakur Singh
resident of 325/2 Lal Colony, Juhi
Kanpur.



8. O.N. Shukla, HSW-I
son of Shri Har Charan Shukla
resident of 12/11, Halwa Kherda Colony, Juhi
Kanpur.
9. Brij Mohan, HSW-I
son of Shri Baldev Prasad
resident of H.No.123/487, Fazalganj,
Kanpur.
10. S.N. Singh, HSW-I
son of late Chhedi Singh
resident of G-I/401 Armapore estate,
Kanpur.
11. S. Banerjee, HSW-I
son of late A.K. Banerjee
resident of NT/III/208, Armapore Estate,
Kanpur.
12. S.K. Srivastava, HSW-I
son of late Parmeshwari Prasad Srivastava
resident of 124/B/32 Govind Nagar,
Kanpur.
13. K.N. Rai, Chargeman-II(T)
son of late Narmuni Rai
resident of MIG 61, Port II, Panki
Gangaganj, Kanpur.
14. T.H. Zafri, HSW-I
son of Shri Tasadduque Hussain
resident of Near Jamia Masjid, Damoh
Madhya Pradesh
15. D.K. Singh, Chargeman-II(T)
son of Shri Gaya Prasad Singh
resident of 75/12, Vijay Nagar
Kanpur.
16. C.M. Sharma, Chargeman-II(T)
son of late I.D. Sharma,
resident of LIG 1360, Avas Vikas Scheme
Kalyanpur, Kanpur.
17. Arjun Das Chargeman-II(T)
son of late Bijal Mal
resident of 13/199, Govind Nagar,
Kanpur.

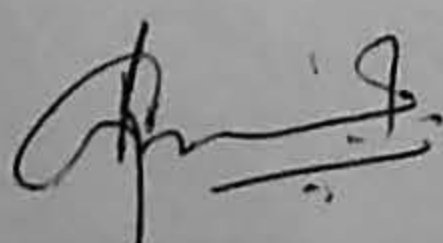
..Respondents

O R D E R

BY HON. MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

This Review Application is filed by Union of India and other respondents in O.A. 84/93 against the orders of this Tribunal dated 9.4.99.

2. It is noticed that the certified copy of order was made ready on 21.4.99 and the Review Application was filed



initially on 21.5.99 without an affidavit to get over the question of limitation as stated by the learned counsel for the applicants on 27.5.99. This would indicate that the defects pointed out by the Registry were not inadvertant. The R.A. after curing the defects was filed on 27.5.99. Thus, the R.A. is filed beyond the prescribed period of 30 days period and is barred by limitation. There is no application for condonation of delay also.

3. In the Review Application a number of grounds have been advanced by the applicants.

(i) The order dated 6.7.78 was issued based on the decision taken by JCM III and the same provide for grant of notional seniority in 'A' grade to the employees graded as 'B' w.e.f. the date six months later than the date of gradation by the Director General, Ordnance Factories.

ii) The order dated 7.9.92 was issued as per the decision in JCM-III held on 3.7.92 which provided for deletion of condition of transfer to other factories on promotion to Supervisor 'B'(T) . The letter further clarified the provisions laid down in the Ordnance Factories Board's letter dated 6.7.78 to the effect that notional seniority granted in 'A' grade would be taken into account for promotion to Supervisor 'B'(T) and equivalent posts and did not modify or enlarge any provision of letter dated 6.7.78. It did not add any new provision related to grant of notional seniority.

(iii) The letter dated 7.9.92 did not envisage any weightage to be given to the notional seniority for the purpose of further promotion beyond the level of Supervisor 'B'(T).



(iv) The Ordnance Factory Board had further issued specific instructions vide letter No. 571/A/I(Genl) (Ex.Journemanship) dated 23.8.94 based on the judgment of the Jabalpur Bench of the Tribunal in O.A. 217/87 wherein concept of notional seniority was explained and provided that further promotion to those employees as Chargeman Grade 'I'(Tech) on the basis of notional seniority in 'A' grade is not to be granted.

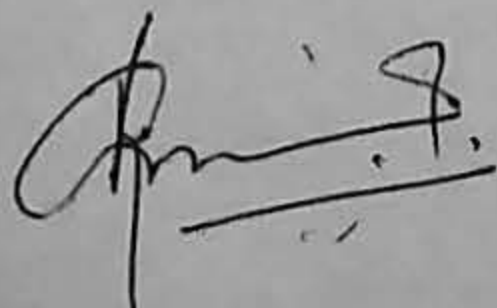
(v) Partially quashing the order dated 7.9.92 would have far reaching effect leading to withdrawal of the fixation and other benefits given to them on notional promotion to Supervisor 'A'(T) and financial benefit from actual date of promotion to the post affecting large number of employees adversely after long gap of time.

(vi) The affected employees have not been afforded an opportunity of being heard as they have not been impleaded either.

(vii) The Tribunal failed to appreciate the ratios of various decisions cited on behalf of the Union of India.

(viii) The decision leading to the issue of letter dated 6.7.78 and 7.9.92 was taken in the JCM-III level and such decisions were binding on the employees and the Government, and policy decisions for the mitigation of the grievances of the employees were in the domain of the executive alone and the courts/tribunals should not interfere in the same. How much benefit and in what shape the grievances of Ex-Journeymen be mitigated were not matters on which Tribunal can have any say.

4. We have given careful consideration to the above grounds. All the grounds except the letter dated 23.8.94 referred to in (iv) above were part of the pleadings in the



O.A. and urged before the Tribunal. The letter dated 23.8.94 is not referred to in the affidavit. By the review applicant's own statement, Small Arms Factory management misinterpreted the letter dated 7.9.92 and erroneously gave weightage to the notional seniority while reckoning seniority in the grade of Chargemen Grade II (Tech).

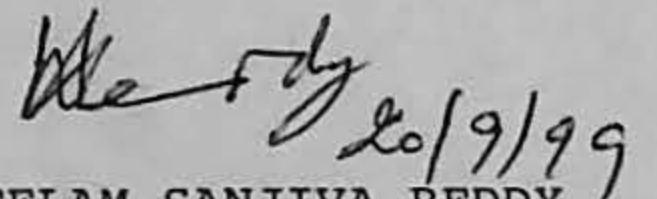
4.1 If non-jointer of proper parties was fatal to the O.A. and the Tribunal had taken a contrary view or if there were patent errors of law in the order of the Tribunal, these cannot be agitated again through a Review Application.

4.2 From para 9 of the order dated 9.4.99 onwards give details as to how and why the Tribunal arrived at the finding stated therein. The Tribunal had come to the said findings, taking into account all the materials placed before it through the rival pleadings and the submissions of the counsel for the parties.

5. In the light of the foregoing, we are of the view that the Applicants in the Review Application have not made out a case for review of the order dated 9.4.1999 passed by us in; O.A. No. 84 of 1993. Further, the R.A. is also barred by limitation. Accordingly, we dismiss this Review Application.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

 20/9/99

NEELAM SANJIVA REDDY
VICE CHAIRMAN