OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 7th day of September 2000

Hon'ble Mr. Justice R.R.K. Trivedi, VC
Hon'ble Mr. M.P. Singh, AM

Original Application no. 836 of 1999

Sri Tara Chand Pandey, S/o Late D.N. Pandey,
R/o 181, Tilak Nagar, Allahpur,,
Allahabad.

.. Applicant

Original Application no. 837 of 1999

Sri B.P. Singh, S/o late Ori Singh,
R/o 439-A, Bakshi Bandh, Daraganj,
Allahabad.

... Applicant

Original Application no. 838 of 1999

Sri Janardan Pandey, S/o Late S.B. Pandey,
R/o Ordnance Officer (Civilian Stores),
Western Command, Stationery Depot,
Meerut Cantt, Meerut.

... Applicant

Original Application no. 866 of 1999

Sri R.R. Singh Yadav, S/o Late Than Singh,
presently posted at OIC, OSS, DET 508, Army Base,
Workshop, Cheoki, Allahabad.

.. Applicant

C/A Shri M. Goel
Shri K.P. Singh (in all the OAs)

Versus

1. Union of India, Ministry of Defence, New Delhi.

2. The Directorate General of Ordnance Services, Master General of Ordnance, Army Head Quarters, DHQ P.O. New Delhi.

3. The Officer Incharge (Records), AOC Record, Post Trimul Giri, Secunderabad Andra Prades.

4. Mohinder Singh, S/o Shri B. Singh, posted as Ordnance Officer Civilian (Stores) Posted at Ammunition Depo, Bhatinda (Punjab), Date of appointment 28.5.63.

5. M.C. Sharma, S/o Shri R.D. Sharma, Posted as Senior Stores Superintendent at COD, Chheoki, Naini, Allahabad. Date of appointment 28.05.63 as store keeper.

6. S.P. Singh, S/o Late J.N. Singh, Posted as Senior Store Superintendent at C.O.D. Chheoki, Naini, Allahabad. Appointed as Store Keeper on 3.6.63.

7. R.N. Updhayaya, S/o Late Shri V. N. Updhayaya, Posted as Senior Store Superintendent at C.O.D. Chheoki, Naini, Allahabad, Appointed as Store Keeper on 28.5.63.

8. Jalim Singh, S/o Sri Gayadin Singh, Posted as Senior Store Supdt. at COD Chheoki, Naini, Allahabad.

.. Respondents in all the OAs

C/Rs Shri S. Chaturvedi,
Shri D.C. Saxena
Shri R. Verma

O R D E R

Hon'ble Mr. Justice R.R.K. Trivedi, VC

In all the aforesaid OAs questions of facts and law are similar and they can be disposed of finally by a common order, against which learned counsel have no objection.

2. Applicants, by means of these OAs under section 19 of the Administrative Tribunals Act, 1985, have challenged the order dated 30.06.99 by which the seniority given to the applicants on the basis of the order dated 03.08.94 passed in OA 1640 of 1992 has been taken away.

3. We have heard Shri M. Goel learned counsel for the applicant and Shri S. Chaturvedi and Shri R. Verma learned counsel for the respondents.

4. The facts in short giving rise to this dispute are that the applicants were serving under respondents as Civilian School Masters. However, they were rendered surplus on account of disbanding of the concerned unit and closure of the School. They were redeployed by absorption as Asstt. Store Keepter in 1976 on different dates. By order dated 11.10.1984 their pay scales were protected which they used to receive as Civilian School Masters. This order became necessary as the post of Civilian School Master was equivalent to Upper Division Clerk, whereas the post of Asstt. Store

Keeper is equivalent to Lower Division Clerk. Applicants subsequently filed OA no. 1640 of 1992 and chaimed seniority on the basis of inclusion of their past services as Civilian School Masters. The OA was allowed by order dated 03.08.94. SLP no. 730 of 1996 filed by Union of India, challenging the order dated 3.8.94 was dismissed on 28.02.96. The matter however went again before Hon'ble Supreme Court in SLP no. 6276 of 1995 (filed against order dated 24.12.93 passed in OA no. 1232 of 1991 by this Bench) Hon'ble Supreme Court while disposing of SLP by order dated 02.11.95 (annexure CA 1) gave the following orders :-

> " In view of the above position and the fact that the question raised by the petitioner for adjudication on merit would require production of additional evidence by the parties; it is not appropriate that the same be gone into in the first instance in these proceedings in the S.L.P. after impleading the petitioners as parties in this list, when the respondents did not choose to implead them in the OA filed by them in the Tribunal. The matter is left for adjudication on merit in themanner indicated earlier.
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> The Special leave petition is disposed of in these terms."

Necessary consequence of the aforesaid order dated 2.11.95 was that the finality attached to the order dated 17.8.90 passed in OA no. 436 of 1986 (which was also noticed by Hon'ble Supreme Court) and order dated 03.08.1994 passed in OA no. 1640 of 1992 was taken away and they became subject to challenge in OAs filed by the persons aggrieved who were not

impleaded in OAs as respondents. OA no. 2317 of 1995 was filed by Shri Mahendra Singh, before Principal Bench of this Tribunal impleading present applicants as respondents, which was allowed by order dated 08.07.96. The operative paragraph no. 13 of the order is being repreduced below :-

> "In the conspectus of the facts and circumstances and the legal position as discussed above, we find that there is considerable merit in the application and that the applicant is entitled to the relief prayed for by him. The application is, therefore, allowed. It is declared that the Civilian School Masters who were redeployed as Store Keepers are not entitled to count their post services as CSMs for seniority in the grade of Senior Store Keeper. We, therefore, direct the respondents to cancel all the orders by which the respondents nos 4 to 8 were given seniority over the applicant and to restore the applicants seniority over the respondent no 4 to 8 and grant him the consequential benefits. Action in the above lines should be completed and orders issued within a period of 2 months from the date of receipt of this order."

The aforesaid order dated 8.7.96 was challenged before Hon'ble Supreme Court in SLP no. 16966 of 1996. SLP was however, dismissed by order dated 30.09.96. Union of India also challenged this order by filing a seperate SLP 3717 of 1997, which was dismissed by order dated 19.05.97.

5. The respondents have not passed the order dated 30.09.99 following the order of the Principal Bench dated 08.07.96. Aggrieved by which the present OAs have been filed.

6. Shri M. Goel has submitted that the order dated 3.8.94 passed in OA no. 1640 of 1992 became final and its finality could not be disturbed. It has been submitted that the SLP filed against the aforesaid order was dismissed by the Hon'ble Supreme Court and the order was not open for re-consideration in seperate proceedings. Reliance has been placed on the judgment of the Hon'ble Supreme Court in the case of State of Maharashtra Vs. Prabhakar Bhikaji Ingle, JT 1996 Vol 3 SC 567. We have considered this submission. However, we do not find force in the submission of learned counsel for the applicant. SLP against the order dated 3.8.94 was dismissed mainly on the ground of limitation, as the SLP was filed after 437 days of period of limitation prescribed. There was no discussion on merits. The Hon'ble Supreme Court, however, by another order dated 2.11.95 passed in SLP no. 6276 of 1995 discussed the facts involved in detail and passed order permitting aggrieved persons to raise their griavances by filing separate OAs. The effect of this judgment was that the finality of the orders passed in OAs filed earlier, became subject to the orders passed in OAs filed in pursuance of the order dated 2.11.95. The second submission of the learned counsel for the applicant is that under the order dated 9.7.96 of the Principal Bench, at the most, applicants

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could be put below Mohinder Singh in the seniority list, but they could not be deprive of other benefit and they have been wrongly restored to the status quo ante by the impugned order. We do not find any force in this submission too, as the Principal Bench vide its order dated 08.07.96 also made a declaration that Civilian School Masters will not be entitled for any computation of seniority on the basis of their past services rendered as CSMs. Respondents were bound to follow this declaration. The order cannot be termed illegal on this count also. The last submission of learned counsel for the applicant is that the applicants ought to have been afforded an opportunity of hearing before the impugned order was passed as it is in the nature of punishment. The submission has no force. The impugned order dated 30.09.99 has been passed towords the implementation of the order of the Principal Bench dated 08.07.96. which was passed after hearing the applicants. Such order cannot be termed as order of punishment, no opportunity of hearing was required to be given. The applicants have been rightly deprived of the benefit of the seniority given to them on the basis of service rendered as Civilian School Masters in pursuance of order dated 08.09.96, which has been confirmed by the Appeal Court also. Learned counsel for the applicant has not been able to point out that the applicants have been deprived of any other benefits beyond the scope of the order dated 8.7.96.

7. In the circumstances, we do not find any merit in these OAs. The OAs are accordingly dismissed. No order as to costs.

8. Copy of this judgment shall be placed in each OAs.

Member-A

Vice-Chairman

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