

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH ALLAHABAD**

ORIGINAL APPLICATION NO. 1028 OF 1999
ALLAHABAD THIS 02ND DAY OF February 2009.

Hon'ble Mr. Justice A.K. Yog, Member (J)
Hon'ble Mr. S.N Shukla, Member (A)

1. P.C. Singh S/o Shri H.R. Singh, aged about 40 years, R/o 84, Sumanpuri, Adholwala, District Dehradun.
2. R.K. Sharma, S/o late Jai Chand Sharma, aged about 36 years, R/o 57/5, Ashok Vihar, Salawala, Dehradun.

.....Applicants

By Advocate: Shri Lalji Sinha.

Versus.

1. Union of India through Director General, Ordnance Factory, Govt. Of India, Ministry of Defence, 10-A, Shaheed Khudiram Bose Road, Calcutta.
2. General Manager, Ordnance Factory, Dehradun.

.....Respondents

By Advocate: Shri M.B Singh

ORDER

Delivered by Justice A.K. Yog, Member (J)

Heard Shri Lalji Sinha, Advocate on behalf of the applicant, none present on behalf of the respondents, who are represented and filed their counter affidavit as well as supplementary counter affidavit. Applicants have filed Rejoinder and Supplementary Rejoinder.

2. Shri P.C. Singh and Shri R.K. Sharma (Applicant Nos. 1 and 2 respectively) were allowed to join together and pursue single petition under section 19 of Central Administrative Tribunal Act 1985 vide order dated 1.9.1999 allowing M.A. No. 3843/99 under Rule 4 (5) of C.A.T Procedure Rules 1987.

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3. According to the pleadings in the O.A. the applicants were appointed as Mill Wright (S.K.) and Optical Worker (HS II) in different grade in Ordnance Factory of Ministry of Defence, Government of India at Dehradun; Circular/notification dated 25.07.1995 was issued by the then General Manager, Ordnance Factory, Dehradun to fill up vacancies of Draughtsman in the scale of Rs.1200-2040 Indicating-Qualification- (Min) as 'matriculation and two years diploma/certificates'; According to Clause 4 of the Circular/Notification "*employees who does not possess required qualification and are willing to undergo training in OFTI may submit their application.....*". (Annexure 3 to compilation II of the O.A); applicants also submitted their applications and were selected and issued 'appointment letter' 'purporting to appoint them as Draughtsman' in the Ordnance Factory Dehradun-vide order dated 5.12.1995/Annexure 4. It appears that higher authorities did not find favour with above 'Selection/appointments' and by the means of impugned order dated 12.8.1999/Annexure 2 and order dated 13.8.1999/Annexure 1, the applicants were directed to be redesignated as 'Tracer' in the pay scale of Rs. 4000-6000 i.e. the same pay scale as applicable to the post of Draughtsman.

4. Alongwith O.A, applicant have annexed copy of letter dated 8.6.1999-Annexure 5/Compilation II. For convenience, the contents of aforesaid letter issued by Government of India, Ministry of Defence, Calcutta is being reproduced in extenso :-



"Vide OFB letter dated 19.4.1993 quoted at reference above, a ban on filling up of the post of D'man was imposed. It is noted that inspite of that ban, some factories have filled up the post of D'man by promotion from Tracer. Subsequently by a telex dated 27/28.12.1995 quoted at reference above, a final and categorical instruction was issued that D'man post are not to be filled up at all either by promotion by transfer. Inspite of the instructions it has been noted that a few factories have promoted some Tracers to D'man post in the pay scale of 1200-2040/- (pre revised). While majority of the factories have not promoted any tracer the anomalous position which has arisen out is that in many factories there are senior tracers who have not got promotion to the post of D'man whereas very few Tracers even juniors in some factories have got promotion to D'man.

Some factories explained that by OFB letter No.2/Staff/A/NI dated 15.7.1994 ZBB strength of NIEs of some factories was fixed and in the letter it was mentioned that the vacancies can be filled up by following the recruitment rules. They have taken this as promotion for filling up of the post of D'man. This interpretation is not correct since the ban imposed on filling up of the post of D'man was operative by the order dated 19.4.1993 and there was no mention in the 15.7.1994 letter that the ban is being lifted 19.4.1993 letter was a general type of letter applicable to many posts and the same cannot be considered as lifting the ban imposed by OFB letter dated 19.4.1993.

In Some factories the D'man promoted after 1993 has been ever promoted to Ch'man quoting the reference of letter No. 75/Staff/A/NO dated 31.7.1997. This contents of the 31.7.1997 letter are that the post of D'man in the pay scale of Rs.1400-2300/- are converted to the post of Ch'man Gr. II (I) and it was mentioned that D'man in the pay scale of Rs.1200-2040 shall be held against the post of Ch'man Gr. II (T). This did not by itself mean that a D'man in the pay scale of Rs.1200-2040 was to be promoted to Chargeman.

The promotions which have been effected to the post of D'man after 10.5.1993 are all irregular and is likely to create various complications. If it is allowed to continue, it will create lot of disparity. It has therefore been decided that all persons holding the post of D'man who have been inducted after 10.5.1993 to the post of D'man shall be redesignated to Tracer w.e.f 1.7.1999 in the pay scale of Rs.4000-6000/- All Tracers who were in the pay scale of Rs.3200-4900 are also getting upgraded to the pay scale of Rs.4000-6000/- w.e.f. 20.4.1999 vide M of D letter No. 45 (1)/98/III/D (Fy-II) dated 20.4.1999

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circulated under OFD letter NO. 595/TRACER/A/NI/96 dated 10.5.1999. This will bring all existing D'man and Tracers in the same scale and at par and will solve all complications.

Factories which have promoted D'man inducted to the grade of D'man after 10.5.1993 to the post of Ch'man are required to revert them to the post of Tracer in the pay scale of Rs.4000-6000 w.e.f. 1.7.1999.

Factories are requested to take immediate action and intimate the action taken by them to O.F. Board latest by 12.7.1999.

(B.B Verma)

Deputy Director General/NG
For Director General Ordnance Factories"

5. The argument on behalf of the Applicants, is that they had submitted their application in pursuance to the Circular (referred to above), they had correctly indicated their qualifications; selection committee approved their candidature and issued appointment letters- to work as Draughtsman. By re-designating them as 'Tracers'- even though there is no change in pay- scale, they have no promotional avenue. Arguments is that once the applicants were selected and appointed as Draftsman-as per Notification/Circular and there are no charge of "concealment/fraud" against the applicants, they could not be re-designed as 'Tracer'. Next argument is that many person in their Factory, junior to the applicants, were promoted and appointed as Draughtsman.

6. As far as the argument of parity is concerned, no specific instance/s have been disclosed in the O.A. and, therefore, mere oral argument-without referring to specific pleading on the issue- of non consequence. Further there can be no argument of parity for committing mistake/irregularity. As far as the argument

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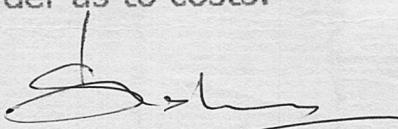
of loss of promotional avenues is concerned, we find no material on record -viz- hierarchy of the posts/cadre of 'Draughtsman' and 'Tracer'.

7. On the other hand, we find that the contents of Annexure A-5 dated 8.6.1999 (quoted above) have not been disputed to the extent that such redesignation/appointment as 'Draughtsman' in favour of the applicants was against 'Ban' Imposed by Ministry of Defence. In-charge of one 'Unit'/Ordnance Factory was not competent make promotion/appointment against instruction Issued by Ministry of Defence depriving others of similar opportunities.

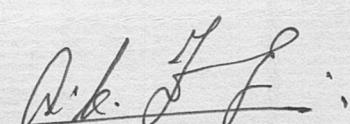
8. Besides the above, the learned counsel for the applicants on being enquired-'whether the applicants had undergone training after joining as Draughtsman in 1995 (as they did not possess Diploma in D'manship) as provided in Circular/notification? Informs that the applicants have not undergone requisite training. The post of Draughtsman (one will appreciate) is of technical nature which require special expertise which cannot be ignored

9. In view of the above, we find no substance/merit in the contention of the applicants. O.A. is accordingly dismissed.

10. No order as to costs.



Member (A)



Member (J)

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