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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.624 OF 1995
Cuttack this the 19th day of August/2002

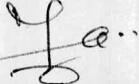
Jagadish Ch. Baidya & Ors. ... Applicants

-Vrs.-

Union of India & Others ... Respondents

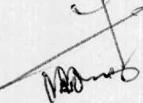
(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? No
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(V. SRIKANTAN)
MEMBER (ADMINISTRATIVE)

For Mr. Mohanty
4/10/02


M. Mohanty m (S)

Perfor.
6/20/02

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ORIGINAL APPLICATION NO.624 OF 1995
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CORAM:

THE HON'BLE MR. V. SRIKANTAN, MEMBER (ADMINISTRATIVE)
AND
THE HON'BLE MR. M.R. MOHANTY, MEMBER (JUDICIAL)
...

1. Jagadish Chandra Baidya, S/o. Jyotish Ch. Baidya
2. Sekharnath Karmarkar, S/o. Late Srinath Karmakar
3. Subal Chandra Giri, S/o. Sripati Bhusan Giri
4. Akhilesh Kumar Srivastava, S/o. Late J.B. Lal
5. Harendranath Panigrahi, S/o. Bishnumohan Panigrahi
6. Harinarayan Padhiary, S/o. Panchanan Padhiary
7. Laxmidhar Behera, S/o. Madhusudan Behera

All the petitioners are serving as Asst. Foreman
under Director, Interim Test Range, Chandipur/
Commandant, Proof & Experimental Establishment,
Chandipur

... Petitioners
By the Advocates M/s. A.K. Mishra
J. Sengupta
B.B. Acharya
A.K. Guru

-Versus-

1. Union of India through its Secretary, Ministry of Defence, Senabhaban, New Delhi
2. Scientific Advisor to Rakhyamantri, Ministry of Defence, Sena Bhaban, New Delhi
3. Director, Interim Test Range, Chandipur, Balasore
4. Commandant, Proof & Experimental Establishment, Chandipur, Balasore

... Respondents
By the Advocates Mr. A.K. Bose,
Sr. Standing Counsel
(Central)

O R D E R

MR. V. SRIKANTAN, MEMBER (ADMINISTRATIVE) : Heard Shri J.

Sengupta, the learned counsel for the applicant and Shri A.K. Bose, the learned Sr. Standing Counsel appearing on behalf of the Respondents.

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2. In this Application the applicants have sought for declaring Rule 6(3)(a)(b)(c) of the Defence Research and Development Organisation Technical Cadre Recruitment Rules, 1995, as ultra vires of the Constitution and to further direct the Respondents that the applicants cannot be shown junior enblocked to Chief Draftsman and Sr. Scientific Assistant.

3. The brief facts of this case, as mentioned are that for promotion to the post of Junior Scientific Officer, mainly the Chief Draftsman, Foreman and Sr. Scientific Asst. are considered and the feeder Grade for the post of Chief Draftsman is from Draftsman Gr.I, II and III. With regard to Foreman, the post is being filled by way of promotion from amongst Asst. Foreman, Chargeman, Gr.I, II, Tradesman Senior A, B, C and E. The post of /Scientific Assistant is filled by promotion from Sr. Scientific Asst., Jr. Scientific Asst., Gr.I Jr. Scientific Asst and Jr. Scientific Asst. Gr.II. The entry qualification with regard to Diploma Holders in the Grade of Daftsmen Gr.II is diploma plus two years experience, Chargeman Gr.II, Diploma plus two year experience and Jr. Scientific Asst. Gr.II, the entry qualification is also diploma holder. The posts of Draftsman II and Chargeman II are being filled by way of promotion from amongst the persons having a qualification of ITI Certificate along with Matriculation. That on on 16.8.1995 a notification was made in supersession of Research Development Organisation (Jr. Scientific Officer) Recruitment Rules, 1980, wherein the Rules promulgated was called Defence Research & Development Organisation Technical Cadre Recruitment Rules, 1995.

With regard to Rule 6(3)(a)(b) it is stated as under:

"3(a) All persons holding the posts of Chief Draughtsman and Sr. Scientific Asst. in the pay scale of Rs.2000-3200/- and Rs.1640-2900/-, respectively, the Asst. Foreman, Draughtsman Gr.I and Chargeman Gr.I shall be placed in Grade I of Category III.

(b) The inter-se-seniority of the incumbents of the posts of Chief Draughtsman and Sr. Scientific Asst. shall first be drawn on the basis of length of their regular service in their respective grades subject to maintenance of their original relative seniority in such grades and they shall rank enblock senior to the incumbents of the posts of Asst. Foreman".

The rules also provide for Junior Scientific Assts., under which employees in each Grade are entitled for promotion after five years of regular service on comparative assessment. These rules have been challenged in this application on the ground that the various cadres pertaining to Draughtsman and Junior Scientific Assistants have now been made into one unified cadre as a result of which the applicants have lost chances of their promotion prospects also because of the combined seniority list now to be drawn up, wherein the applicants are being shown as junior to Chief Draughtsman and Senior Scientific Assistant. It is the contention of the applicants that these actions of the respondents are violative of Articles 14 and 16 of the Constitution, and being aggrieved with this, they have approached this Tribunal with this application.

4. The Respondents have filed their counter.

During argument, Shri A.K. Bose, the learned Senior Standing Counsel brought to our notice that similar issues were raised before the Bangalore Bench of the Central Administrative Tribunal in O.A.Nos. 87 & 116 to 142/96 and 424/96 and 438 to 468/96, 2001 & 2041/95 (disposed of on 26th day of July, 1996) and in O.A. Nos. 2313/95 and 498 to

504/96 (disposed of on 2nd day of August, 1996). The Bangalore Bench of this Tribunal having dealt with the matter in detail held that the applicants therein did not have a legal right to the reliefs sought for and accordingly dismissed the applications. Also in the aforementioned batch of three cases, viz. O.A.Nos.87 and 116 to 142/96 (disposed of on 26.7.1996) the Bangalore Bench of the Tribunal held that the applicants did not have a legal right to be placed at a level higher than what has been given to them and accordingly dismissed the applications.

In this view of the matter, we do not see any reason to take a different view from the view already taken by the Bangalore Bench of this Tribunal in the aforementioned matters (analogous to this matter). Therefore, the O.A. is held to be without any merit and the same is dismissed, without any order as to costs.

[Signature]

(M.R.MOHANTY)
MEMBER (JUDICIAL)

[Signature]

(V.SRIKANTAN)
MEMBER (ADMINISTRATIVE)

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