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(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 662 OF 1995
Cuttack this the 19th day of August/2002


Rama Chandra Das & Ors. ... Applicants

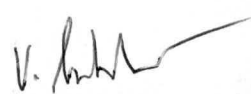
-VERSUS-

Union of India & Others ... Respondents

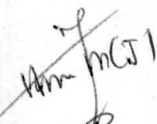
(FOR INSTRUCTIONS)

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 ? No


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(V. SRIKANTAN)
MEMBER (ADMINISTRATIVE)

For an answer
9/10/02


MCT

PC for
9/11/02

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.662 OF 1995
Cuttack this the 19th day of August/2002

CORAM:

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

1. Rama Chandra Das, 52 years,
S/o. Trilochan Das
2. Ranjan Banarjee, 40 years,
S/o. B.B.Banarjee
3. Ramanarayan Dutta, 40 years

Son of Anuk Bhusan Duttak

Petitioner NO.1 is serving as Draftsman Gr. I
under the Administrative Control of OP No.4

Petitioners 2 and 3 are serving as Draftsman,Gr.I
under the Administrative Control of OP No. 3

... Petitioners

By the Advocates

M/s.A.K.Mishra
J.Sengupta
B.B.Acharya
J.P.Rath

Vr.

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

... Opp.Parties

By the Advocates

Mr.U.B.Mohapatra,
Addl.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 U.B.

Mohapatra, the learned Addl.Standing Counsel appearing on
behalf of the Respondents.

2. In this Application the applicants have sought for declaring Rule 6(3)(a)(b)(c) of the Defence Research & Development Organisation Technical Cadre Recruitment Rules, 1995, as ultra vires of the Constitution and for further direction to Respondents to fix the seniority taking into consideration the entry of the applicants as well as persons those who have been grouped together respectively taking into consideration the entry in the scale of pay Rs.1400-2300/- i.e., petitioners and Jr.Scientific Asst. Gr.I/Chargeman Gr.II and also to direct Respondents to show that the applicants cannot be junior enblock to Sr.Scientific Assistants.

3. The brief facts of this case, as mentioned by the applicants are that the applicants entered the Organisation of the Respondent Nos. 3 and 4 as Draftsman Gr.III on 17.7.1968, 11.6.1982 and 31.5.1982, respectively in the scale of Rs.1200-2040/- and were promoted to Draftsman Gr.II on 7.5.1973, 15.4.1986 and 15.4.1986, respectively. Subsequently the applicants 1 to 3 were also promoted as Draftsman, Gr.I on 4.4.1984, 15.9.1991 and 15.4.1991, respectively. Further, from the Draftsman, Gr.I, the next promotion is to the posts of Chief Draftsman ^{and} thereafter to the post of Junior Scientific Officer ^{for} That ~~for~~ promotion to the post of Junior Scientific Officer the entry qualification is Diploma in the concerned discipline with two years experience. In respect of Draftsman Gr.II, persons should have a diploma with one year experience or in alternative the post is being filled from amongst the Draftsman Gr.III in respect of whom the requisite qualification is I.T.I. Certificate plus Matriculation

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The applicants contend that they possess I.T.I. Certificates plus Matriculation. On 16.8.1995, amendments were made by including all the posts of Draftsman Gr.I, Chargeman, Gr.I, Asst.Foreman, Sr.Scientific Assistant and Chief Draftsman into a common cadre. It is the contention of the applicants that the posts of Draftsman and Junior Scientific Assistants are completely separate and that promotional avenues of Draftsman as well as Junior Scientific Assistants are completely different and independent by as such they maintain their identity throughout and by virtue of merger as Sr.Technical Assistant Category III (Gr.I) promotions are to be made from Sr.Technical Assistants to Technical Officer 'A'. Being aggrieved by the merger of the cadres the applicants have filed this Application.

The main contention of the applicants is that through this merger unequals have been made equals which is not permissible under law and that through this merger, the chances of promotions of the applicants have been adversely affected, which cannot be curtailed under Article 309 of the Constitution. It is also contended that the rule has its retrospective implication in the sense that the seniority list has to be recast and if this is done the applicants become junior to the Asst. Foreman as well as to Sr.Scientific Asst and that in the process they may not get any promotion to the next higher grade. Hence the rules ^{are to be} ~~are~~ are arbitrary, illegal and violative of Articles 14 and 16 of the Constitution.


4. The Respondents have filed their counter.

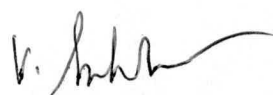
During argument, Shri U.B.Mohapatra, the learned Addl.Standing Counsel brought to our notice that similar

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issues were raised before the Bangalore Bench of 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.


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(V. SRIKANTAN)
MEMBER (ADMINISTRATIVE)

By