

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

No.O.A.570 of 1996

Date of order :

21/7/08

Present : Hon'ble Mr. P.K. Chatterji, Administrative Member

Hon'ble Dr. D.K. Sahu, Judicial Member

1. Stephen Wilkins
2. Deleted
3. Deleted
4. Chandran Nair
5. Abhijit Sen
6. Satya Ranjan Kar
7. Debu Prasad Dey
8. Deleted

.....Applicants

Vs.

1. Union of India, Service through the Secretary,
Department of Defence Production, Ministry
of Defence, Defence Headquarters(South Block),
New Delhi – 110 011.
2. Director General of Quality Assurance,
Department of Defence Production (DGQA),
“G” Block, New Delhi – 110 011
3. The Director of Quality Assurance(Armaments),
Department of Defence Production(DGQA),
“G” Block, New Delhi – 110 011
4. The Senior Quality Assurance Officer,
Senior Quality Assurance Establishment(Armaments),
Cossipore, Calcutta – 700 002

.....Respondents

For the applicants : Mr. G. Srivastava, counsel
For the respondents : Mr. M.S. Banerjee, counsel

ORDER

Per Dr. D.K. Sahu, J.M.

The applicants have been working in Metrology Section of Cossipur Ordnance Factory under the administrative control of respondent No.1, Department of Defence Production. In accordance with the recommendation of the 3rd Pay Commission, the Government formed an Anomaly Committee/Expert Classification Committee to

Dr. Sahu

consider the grievance of the employees. The committee considered the grievance of 19 common category of trade which were mostly found in all the Ordnance and Ordnance Equipment Factories. They have classified such personnels into three grades i.e. Skilled, Skilled Gr.II and Skilled Gr.I but they left out some such personnels belonging to other trades like Lapers, Armourers, Shapers etc. So, 12 such Lapers filed an application before this Tribunal registered as O.A.No.507 of 1989 wherein the Tribunal directed in their order dated 04.02.1994 to remove the discrimination caused to the Lapers and ordered that there should be three grade pay for them too without any trade test and that be given effect to from 15.10.1984. In compliance of the Tribunal's order, the Lapers were amalgamated with Grinders creating a common cadre of Skilled, Skilled Gr.II and Skilled Gr.I. Accordingly a common seniority list was prepared on 23.03.1994. As two Grinders namely K.P. Sen and A. Ghosh had been promoted to the higher grade i.e. Skilled Gr.II with effect from 15.10.1984, the Lapers who were appointed prior to them, were also promoted to Skilled Gr.II cadre with retrospective effect. During pendency of the O.A.No.507 of 1989, one, Sri K.P. Sen was promoted to Skilled Gr.I w.e.f. 27.02.1992. Six persons have also been promoted to the post of Grinder(HS), Grinder Sk.I/Tool Makers (HS) with retrospective effect from 27.02.1992 after holding necessary trade test vide order of promotion dated 1.2.1995, Annexure A-5. Consequent to promotion to Skilled Gr.II, Skilled Gr.I cadres, 12 posts fell vacant in the cadre of Skilled Gr.II. But the respondent authority did not conduct any trade test in time to give promotion to Grinder/Laper Skilled Gr.II w.e.f. 27.02.1992. The applicants submit that they having served for three years, they should have been promoted to Skilled Gr.II cadre w.e.f. 27.02.1992 when the post fell vacant. However, subsequently on their representation the respondents after conduct of due trade test prepared a panel on 22.06.1995 for their promotion to Gr.II cadre. In the said panel N.K. Choudhury, B. Banerjee, A.C. Das and Sri Nair (who have been initially added as applicant No.2,3 and 4) were empanelled for promotion, whereas the applicant No.1,5 and 6 were empanelled for promotion, subject to dereservation vide the order, Annexure A-9.

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2. The basic grievance of the applicants is that they should have been given promotion w.e.f. 27.02.1992 as by then 11 posts in Gr.II were lying vacant. It is submitted that had the trade test being conducted in time by the authority, they would have got earlier promotion and consequent seniority. So, this application has been filed basically to antedate their promotion to Gr.II with effect from 27.02.1992. The prayer contained in Para 8(c) of the Application is no more available. In Para 8(d), the applicants claim/pray for same scale of pay as that of H.S. Gr.I/Tool Maker(HS) Gr.I of other workmen of other trades.

3. Respondents submit that in due compliance to the order of the Tribunal passed in the aforesaid case, the Lapers were amalgamated with Grinders and converted to the cadre of Grinders. So, one common seniority list was prepared. One time relaxation was given for promotion to Gr.II without trade test. Accordingly persons like K.P. Sen & A. Ghosh were promoted to Skilled Gr.II and in accordance with the seniority some others were promoted to High Skilled Gr.I w.e.f. 15.10.1984 without any trade test as one time relaxation. After the persons were promoted vide order dated 1.2.1995 vacancies in Grinder, High Skilled Gr.II occurred only in February, 1995 and, thereafter trade test was held. The applicants appeared in the trade test and found suitable. They were promoted against the vacancies in accordance with the seniority. Respondents submit with vehemence that actual vacancy occurred in the year 1995, when the erstwhile Lapers, after being amalgamated as Grinders, got promoted in obedience to the Tribunal's orders. It is further submitted that when the applicants appeared in the trade test in 1995, which was essential for getting promotion to the higher cadre, their claim to get such promotion w.e.f. February, 1992 is misconceived. The respondents also challenge the maintainability of the application on the ground of limitation.

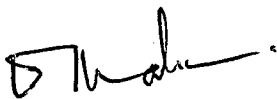
4. After careful consideration and thorough scrutiny of the pleadings of the parties and the documents annexed thereto, we find that there is no dispute on the facts. It is an admitted fact that promotion was given to some incumbents to Gr.II cadre vide order dated 1.2.1995, Annexure A-5 in obedience to Tribunal's order dated 04.02.1994 with

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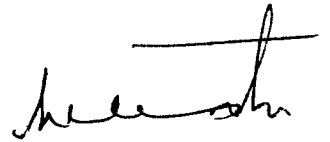
retrospective effect. Admittedly thereafter the trade test was held and empanelment was made wherein the applicants' name find place. Uncontrovertedly, success in trade test is a must to get promotion to the higher cadre i.e. Skilled Gr.II. The applicants appeared in the trade test in 1995. Thus their claim of promotion w.e.f. 1992 is not sustainable. Exemption from trade test to some persons has been given as one time measure in accordance with Tribunal's order. The consequential vacancies were to be filled up by the incumbents who become successful in the trade test. The applicants claim promotion in the consequential vacancies. So, trade test was held in 1995; soon thereafter the promotional order was passed. As mentioned above, their such claim is not sustainable.

5. The applicants claim equal pay with some persons of other trades. Nothing is pleaded much less any document is placed as to with which trade they claim parity in pay. Nothing is brought to record that the eligibility criteria, nature of work, mode of recruitment for both the trades are same. Thus it is held that the claim of the applicants to get same scale of pay with some other incumbents of other trades is ambiguous, accordingly it is not sustainable.

6. After careful consideration we find that the claims of the applicants are not sustainable. They are not entitled to get the reliefs sought for. The O.A. is accordingly dismissed. No order as to cost.



MEMBER(J)



MEMBER(A)