

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA 625/1996

Present : Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)
Hon'ble Shri S. Biswas, Member (A)

Jagadish Ch. Chaki and Ors

..Applicants

VS

Union of India & Ors.

..Respondents

For the applicants: Shri N.C. Chakraborty

For the respondents: Sh. M.S. Banerjee

Date of order 15.1.2003

O R D E R

(Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J))

This application has been filed by 36 applicants seeking reliefs as set out in Para 8 of the OA.

2. When the case was taken up for hearing, learned counsel for the applicants has submitted that he does not press for part of the reliefs as mentioned in sub-para (b) i.e. with regard to undergoing probation period on probation but only that the applicants may be permitted ⁱⁿ to the higher grade from 6.10.1981. In sub-para (c) they have prayed for directions to the respondents to extend the benefits which were given by the Tribunal to applicants in OA 43/1991 by upgrading them retrospectively w.e.f. 16.10.1981.

3. The applicants states that they are working as Motor Pump Attendants/ Refrigerator Mechanics and Pump House Operators during the period from 1965 to 1980. They have submitted that the respondents have clubbed 8 categories of posts by the letter dated 21.7.1994

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(Annexure A.8) wheryby the applicants were redesignated as Fitter General Mechanic. According to them, they have been made erroneously junior to other persons.

4. We have heard Shri N.C.Chakraborty, learned counsel for the applicants and Shri M.S.Banerjee, learned counsel for the respondents and perused the relevant documents on record.

5. Learned counsel for the applicants has relied on the judgement of the Hon'ble Supreme Court in Bhagwan Sahai Carpenter and Ors. Vs-UOI & Anr. (1989(2)SCC 299) and the judgement of the Tribunal in Swapan Kumar Roy and Ors Vs. UOI and Anr. (OA 43/1991) decided on 17.6.1994.

6. Learned counsel for the respondents has submitted that in the present case, there is no discrimination against the applicants. He has submitted that in the facts and circumstances of the case, neither of the two judgements (supra) relied upon by the applicants is applicable. He has further submitted that even the decision in OA 43/1991 was delivered on 17.6.1994, whereas the applicants have filed ^{the} present application belatedly on 17.5.1996. In the circumstances, he has prayed that the OA may be dismissed.

7. A preliminary objection has been taken by the learned counsel for the respondents that all the applicants are not similarly situated and, therefore, they cannot file a joint application. On the other hand, learned counsel for the applicants submits that the OA has already been admitted on 19.1.1998. Therefore, taking into account the facts of the case and the issues involved, the preliminary objection is rejected.

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8. On careful consideration of the aforesaid judgements(supra) relied upon by the applicants, we agree with the contention of the learned counsel for the respondents that they are not applicable to the facts of the present case and are distinguishable. It cannot be held in the present case that there is any discrimination against the applicants and they are also not similarly circumstanced as the applicants in OA 43/1991. Learned counsel for the applicants has also prayed for stepping up the pay of the applicants because according to them certain anomaly has been created. ^{However,} ~~but~~ we find that the conditions for stepping up of pay are also not fulfilled by the applicants in the present case who are actually seeking upgradation of their posts retrospectively w.e.f. 16.10.1981 in the higher grade with all consequential benefits.

9. In the result, for the reasons given above, we find no merit in this application. The same is accordingly dismissed. No order as to costs.

S. Biswas
(S. Biswas)

Member(A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)

Vice Chairman (J)

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