

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. 188 of 1996

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman
Hon'ble Mr. M.S. Mukherjee, Administrative Member

TANMOY DAS & ORS.

-vs-

UNION OF INDIA & ORS.

For applicants : Mr. S.K. Ghosh, counsel

For respondents : Mr. P.K. Arora, counsel

Heard on : 12.8.1996

Order on : 29.8.1996

O R D E R

A.K. Chatterjee, VC

These 8 applicants are all High Skilled Fitter - Gr.II under Sr.Divisional Electrical Engineer(IRWS), Eastern Railway, Asansol and they ^{are} promoted as such either on 20.8.93 or ^{on} 11.7.95 on successful completion of the trade test, prior to which they were Fitter - Gr.III. Some departmental Group-IV employees working as Khalasis were, however, upgraded with retrospective effect from 1.8.78 in terms of an order of the Railway Board dated 13.11.82 and they were assigned seniority above the applicants, though they never qualified in the trade test, success in which was a condition precedent for selection and promotion to skilled grade. There were several applications filed in this Tribunal challenging assignment of such seniority and ultimately, the dispute came before the Supreme Court for adjudication, but in the meantime, on 26.3.90, another order was made by the Railway Board, wherein it was clarified that Artisans classified as

skilled in terms of the Board's order dated 13.11.82 are to get seniority in Skilled Grade-III from the date of passing a trade test and not from 1.8.78. The appeals, which were pending in the Supreme Court being Civil Appeal Nos. 642-642A of 1988 were accordingly disposed of in terms of the said decision of the Railway Board. The present applicants were not parties to any of the appeals before the Supreme Court but according to them, they are entitled to get its benefit as it squarely applies to them. They made a suitable representation on 1.3.93 to the concerned authority for re-casting their seniority and other appropriate consequential relief, which, however, has remained pending to this date. Hence, this application has been filed for necessary direction to grant the relief to which the applicants are entitled in terms of the aforesaid judgment of the Supreme Court and the Board's order dt.26.3.90.

2. The respondents have filed ⁴ the reply contending, inter alia, that since all the applicants were appointed after 1.8.78, they could not be re-classified to the post of Skilled Artisan with effect from this date, but the senior most Semi-Skilled as on 1.8.78 were given the benefit of reclassification as per Board's order dated 13.11.82.

3. We have heard the Id. Counsel for the parties and perused the records before us.

4. The sheet-anchor of the case of the applicants is the Board's order dt.26.3.90 and the judgment of the Supreme Court in Civil Appeal Nos. 642-642A of 1988 passed on the basis of the aforesaid order of the Board. The respondents hardly state anything in this regard in the reply and do not urge that the applicants were not similarly situated as other employees ^{who were parties of} to the appeals before the Supreme Court. We, therefore, see no reason why such benefit of the judgment as may be available to the applicants should not be extended to them.

5. This application is thus disposed of with a direction upon the respondents to consider and dispose of the representation

made by the applicants on 1.3.93, annexure 'C' to the application, within eight weeks from the date of communication of this order by passing a speaking order and in case the desired benefits are denied to the applicants either in whole or in part, ~~in which event~~ they will have the liberty to make a suitable O.A. to this Tribunal. In case the representation is favourably considered whether in whole or in part, appropriate order shall be passed releasing the benefit as far as allowed within another four weeks.

6. No order is made as to costs.

Mukherjee
29/8
(M.S. Mukherjee)
Member (A)

A.K. Chatterjee
29.8.96
(A.K. Chatterjee)
Vice-Chairman