

In the Central Administrative Tribunal
Calcutta Bench :: Calcutta

OA No.67/96

Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice Chairman
Hon'ble Mr. S. Biswas, Member(A)

Devamalya Basu & Ors

-Vs-

M/O Defence

For the applicant : Mrs B. Banerjee
For the respondent : Mr. M. S. Banerjee

Heard on : 4-12-2001

Ordered on : 14-12-01

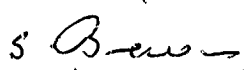
ORDER

Mr. S. Biswas, Member(A) :

By this OA, the applicants who are officers under the Ordnance Factory Board, Government of India and promoted as Foreman/Staff Assistant on diverse dates in the Engineering and Metallurgical streams in 1979 and statedly served in that capacity for 15 years, reclassified as Junior Works Managers in Group 'B' w.e.f. 1994, have sought reliefs in the nature of seniority in the Junior Time Scale of Indian Ordnance Factory Service (Group-A) with Direct Recruits who were recruited in 1991, 1992 and 1993 respectively but simultaneously the promoted quota as per provision of Art.26 of Civil service Regulation were not filled up in JTS, thereby causing loss of seniority to the applicants vis-a-vis Direct Recruits in the JTS (entry point to Gr.'A' service) (scale Rs2200-4000/-) and cumulative loss of further promotional prospects in STS. In doing so the applicants have further challenged the combined seniority list dated 1-1-95 (A-3) demanding recasting of the same in order to show their rightful place in JTS with effect from 1991, 1992 and 1993 and other consequential benefits. In other words, they were eligible to be promoted to the Grade of JTS in 1991, 1992 and 1993 as the case be and had they been accordingly promoted they would have been placed in order of their seniority in the JTS since these years and consequential eligibility and benefits would have accrued to them from further promotion to STS. For non-holding of DPCs for their due promotion (as per 40% quota to Departmental candidates) as they were eligible for, they lost seniority and recurring financial benefits over the years. Their representations for the purposes were not heeded to, giving rise to the present cause of action sought to be vindicated in the present OA.

2. The respondent in denying the allegations have stated that ^{all} the applicants have not completed more than 15 years as Foreman and Staff Assistant as contended and they cannot claim retrospective promotion from 1991, 1992 and 1993. The claim is hit by limitation. However it is not disputed that the DPCs ^{were} not held during these years. The respondent have clarified that due to Supreme Court's Order dated 21-9-92 in CA 2322 of 1991 no DPC could be held in these years (Annexure-R1). The respondents have also challenged that seniority is to be given not from the date and year when the direct recruits joined the service but the year of examination held by UPSC. Therefore it is contended by the respondent, that the direct recruits would be senior to the promoted officers in the year, if they ^{were} respectively recruited and promoted in the same year. We are however not able to accept this stand as there is already judicial pronouncement on the subject. If the year of recruitment of Direct recruits and promotion to the Departmental Candidates are made in the same year then the promoted officers will be placed above the direct recruits of the same year. However, we are also not able to accept that the application is time barred as application was filed after the representations were not disposed of. The applicants ^{undisputedly} have indicated the ratio of vacancies as well as actual vacancies in the year 1991, 1992, 1993 and 1994. In the backdrop of this submission, we consider this to be a fit case to be remanded to the respondents for consideration of the pending representations of the applicants ^{now} and that the injunction of the Supreme Court does not stand in the way.

3. We dispose of the application with the direction ^{to the respondents} to consider the ^{pending} application and also hold ^{review} ~~deemed~~ DPC for the year 1991, 1992 and 1993 against the ^{for departmental candidates} vacancies ^{arise} for those years provided the applicants are found eligible in terms of number of years of service. If they are found suitable they should be promoted with due seniority and consequential benefit of seniority for promotion ^{to} for both JTS and STS in the respective years as well ^{had} as when DPC becomes due. No costs.


(S. Biswas)
Member (A)


(D. N. Chowdhury)
V.C.