

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

O.A. NO.527 OF 1996

Calcutta, this the 10th day of June, 2004

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER  
HON'BLE SHRI J.K. KAUSHIK, JUDICIAL MEMBER

Surja Kanta Das and Ors.

Vs.

Union of India and Ors.

By Advocates: Shri N.C. Chakraborty for the applicants  
Shri B. Mukherjee for the respondents

ORDER (ORAL)


SHRI J.K. KAUSHIK, JUDICIAL MEMBER :

Shri Surja Kanta Das and nine others have filed this Original Application praying therein that the respondents may be directed to extend the benefit of judgement in OA No.43/1991 in the case of Manas Bhattacharjee and Others Vs. Union of India and Others decided on 28.12.1992 upgrading the applicants retrospectively with effect from 16.10.1981 and fix their pay in higher grade with all consequential benefits in addition to restore the inter se seniority of the applicants according to the initial date of entry into service.

2. We have heard the learned counsel of the parties at a considerable length and have carefully perused the pleadings and record of this case. The learned counsel for the applicant has reiterated the facts and grounds mentioned in the pleadings of the application and has submitted that the claims of the applicants are totally based on the judgment which has been passed in number of cases by this Bench of the Tribunal



specially in one which has been indicated in the relief and also OA No.302/1996 in the case of Subal Chandra Paul and Others Vs. Union of India and Others decided on 6.3.2002. He has submitted that the applicants are similarly situated persons and were appointed as Civilian Industrial employees under Military Engineering Service and posted under the Garrison Engineer (Air Force, Kalaikunda, Dist. Midnapore. Some of them were appointed as a Lineman and some of them were appointed as Switch Board Attendant (for short 'SBA') and applicant NO.10 was appointed as Wireman and subsequently they were redesignated as Electrician with effect from different dates and years. Prior to the implementation of the recommendation of the Third Pay Commission these three posts were designated into three categories by the Expert Classification Committee and there was upgradation of the posts of Wireman/SBA/Lineman which were upgraded to skilled category and were feeder post for promotion to the post of Electrician in the same grade and it was decided that 10% of such posts should be upgraded every year to higher skilled grade II and this created anomaly to a great extent. The affected employees were aggrieved by the creation of anomalies and designation and implementing authorities were immensely confused to sort out the anomalies and designation. Some of the persons approached the Bombay Bench of the Tribunal and the benefits of upgradation were extended to them in pursuance to the order of the Tribunal. The applicants are aggrieved because they are not being upgraded to highly skilled grade II. A reference has been made to a number of decisions of this Bench and other Benches of the Tribunal. The Original Application has been filed on diverse grounds which we refrain from narrating for the reasons the order we are passing in this case.



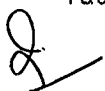
3. The respondents have resisted the claim of the applicant and have filed their detailed and exhaustive reply to the Original Application that three categories classification introduced, i.e, skilled, highly skilled grade II and highly skilled grade I. Accordingly with effect from 16.10.1981, three categories structure has been introduced in all the four categories. The post of Lineman, Wireman and SBA were also upgraded to skilled category equivalent to Electrician and 10% of Linemen, Wiremen and SBAs were also given promotion as highly skilled grade II post. The upgradation of the post has been done after verifying the nature of job as the promotion has been given in different trades, so comparing one trade with another is not in order. All the four categories of the posts have been clubbed together into one category of Electrician with effect from 1987.

4. A rejoinder has been filed on behalf of the applicants once again reiterating the facts and grounds mentioned in the Original Application. The learned counsel of the applicants has submitted that the case of the applicants is squarely covered by the judgements which has been mentioned in the relief clause as well as decision in the case of Subal Chandra Paul (supra) and the persons, who are impleaded as respondents No.7 and 11 were juniors to the applicants, all of them also filed their cases before this Bench of the Tribunal and they have also been granted the reliefs. The learned counsel for the applicants was confronted with the specific query what is the proof that these persons were juniors to the applicant since no seniority list has been placed on records. The learned counsel of the applicants has tried to persuade us that it has been agreed by the respondents in their reply and they are said to be juniors to the applicants. This position has been refuted by the respondents. He has also submitted that




the complete records are with the respondents, who could be issued with the general direction to ascertain the factual position and if the applicants came within the consideration zone and any of their junior was granted the benefits, these applicants should also be granted the same. The learned counsel of the respondents has strongly opposed the contention and submissions raised in the Original Application and contended that the present Original Application is barred by limitation and the applicants have not shown as to how they are senior to the private respondents and no person who have been granted the benefits is junior to the applicants. In this view of the matter, the very Original Application is deserves to be dismissed.


5. From the records as well as from the arguments, we find that no seniority list has been placed on record to ascertain the position and otherwise also not indicated in the OA and we find nothing on record to ascertain as to how these applicants are senior to the private respondents. The applicants have given their date of appointments but they have not mentioned the date of appointment of the private respondents against whom they are seeking parity. We find that the pleadings are scanty and the applicants have not been able to make out any case for our interference. We are constrained to observe that we cannot decide the controversy on the basis of conjectures and surmises and pass a general order for doing some exercise by the respondents. Since the applicants have not being able to establish that they are senior to the private respondents, who are stated to have been given the benefits of upgradation of 10%, we are not in a position to accede to their requests. Thus there is absolutely no violation of the Articles 14 and 16 of the Constitution of India and we do not find any fault with the action fo the respondents in not granting the



benefits of upgradation to the applicants. The other grounds and preliminary objection made on behalf of the respondents are not being considered since we are not primarily satisfied that the applicants have made out any case in their favour.

6. In the result, the Original Application has no merit and the same fails and stands dismissed. No costs.

  
(J.K. Kaushik)  
Member (J)

  
(R.K. Upadhyaya)  
Member (A)

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