

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 1 of 1997

Present : Hon'ble Dr. A.R. Basu, Administrative Member
Hon'ble Dr. D.K. Sahu, Judicial Member

Shri Mihir Kumar Chatterjee,
Son of Late Ashutosh Chatterjee,
Working as Assistant Foreman (Mech.),
Planning Rates, Rifle Factory, Ichapore,

(Since deceased and substituted by)

Smt. Subhra Chatterjee,
W/o. Late Sri M.K. Chatterjee,
Duttapukur, P.O. – Santipur,
Dist. Nadia
(as L.R.)

..Applicant

- versus -

1. Union of India, through the
Secretary,
Ministry of Defence,
Govt. of India,
New Delhi – 110 001.
2. Chairman,
Ordnance Factory Board,
10A, Auckland Road,
Calcutta – 700 001.
3. General Manager,
Rifle Factory, Ichapore,
P.O. Ichapore, Nawabganj,
District 24- Parganas (North).

.. Respondents

For the applicant : Mr. P.K. Munsii, Counsel

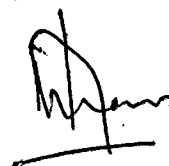
For the respondents : Mr. M.S. Banerjee, Counsel

Order dated: 3.8.2007

ORDER

Per Dr. A.R. Basu, AM:

Shri Mihir Kr. Chatterjee, who was working as Assistant Foreman (Mechanical) in
the Rifle Factory, Ichapore had filed this O.A. being aggrieved by order dated 9.11.96



(Annexure-G) by which his pay had been reduced retrospectively due to change of date of promotion as Charge-man Gr. I. During the pendency of this application, Shri Chatterjee died on 29.11.2000 and the present application is now being pursued by his wife as his legal heir.

2. The original applicant joined service as Apprentice on 26.12.1955 in the Riffle Factory, Ichapore. He was appointed as Fitter on 10.3.1960 and thereafter was promoted as Charge-man Gr. II, Charge-man Gr. I and finally came to be promoted as Assistant Foreman (Mechanical). He retired on superannuation on 29.2.98.

3. The original applicant while working as Charge-man, Gr.II was promoted to the post of Charge-man Gr. I (Mech.) w.e.f. 1.8.81 at Itrasi Ordnance Factory. However, he could not join his promotional post as he at that point of time met with an accident and was bed ridden. After recovery on 27.3.82 he reported for duty at the Riffle Factory, Ichapore and prayed for allowing him to join in the higher post of Charge-man Gr. I against an existing vacancy available there. He was accordingly allowed to join as Charge-man Gr. I w.e.f. 27.3.82 at Ichapur vide factory order dated 13.4.82. His grievance is that on 6.3.95 an order was issued whereby his date of promotion as Chargeman, Gr.I was fixed w.e.f. 1.8.81. His further grievance is that earlier his pay was fixed on promotion as Charge-man Gr. I at the stage of Rs. 650/- in the scale of Rs. 550-750/- w.e.f. 27.3.82 but due to such revision of date of his promotion his pay has been reduced from Rs. 2900/- to Rs. 2825/- from the month of October, 95 and thus he suffered monetary loss. He made several representations and according to him his case was also recommended by the concerned Dy. GM. He has also stated that in the case of one Krishna Ch. Das option was allowed to be exercised by the authorities whereas he has been deprived of such option and, therefore, on his retirement he suffered monetarily in the shape of pension and other retiral benefits. Hence this O.A. praying for the following reliefs:-

- “(i) Quashing of the impugned order dated 9.11.96 (Annexure-‘G’).
- “(ii) Restoration of promotion to the post of Chargemen Gr.I (Mech.) w.e.f. 27.3.82 vide Factory Order Part – II No. 452, dated 13.4.82 (Annexure “C”) without any effect on seniority.



- (iii) Consequential benefits including the pay so fixed vide Office Order Part-II No. 1457 dated 23.10.82 (Annexure – "D").
- (iv) Costs.

4. The respondents have filed a reply contesting the case. It is stated that the applicant initially was given notional promotion as Chareman Gr. I w.e.f. 19.12.79 on the basis of a decision of the Calcutta Bench of this Tribunal dated 25.4.90 passed in O.A. 282 of 1989. Therefore, although he was actually promoted w.e.f. 1.8.81, there was no difference because of his non-joining the post as on date and his joining on a latter date on 27.3.82 and, therefore, his pay was notionally fixed on the date of joining at the stage of Rs. 650/- counting his promotion notionally from 19.12.79. However, subsequently in terms of a further decision of the Tribunal the seniority position of Gr. II Charegemen was revised and on that basis the applicant's actual promotion would relate notionally from 1.8.81 and not from 19.12.79. Before effecting the change of date of promotion a show-cause notice was issued to the applicant on 31.1.95 and the applicant also gave a reply to the same vide Annexure R-1 to the reply. It was only thereafter that the date of promotion of the applicant was revised and his pay was accordingly refixed.

5. We have heard the Ld. Counsel for the parties at length and perused the documents produced.

Ld. Counsel for the applicant has urged that the date of promotion of the applicant was changed unilaterally and without giving any notice to him and, therefore, the said change of promotion which affected the applicant prejudicially was illegal and invalid.

6. Mr. M.S. Banerjee, Ld. Counsel for the respondents has, however, submitted that show-cause notice was given to the applicant and he also replied and all these actions were taken on the basis of the judicial pronouncements and after holding review DPC as will appear from the show-cause notice dated 31.1.95 vide Annexure R-1.

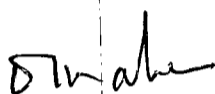
7. After considering the matter carefully we are of the opinion that although the applicant was initially given promotion as Charge-men Gr. I notionally from 19.12.79 the said promotion was subsequently changed on the basis of judicial decisions. The



respondents had also issued show cause notice to the applicant and he also gave his reply. Therefore, the question of violation of principles of natural justice does not arise. It is not a case where only the applicant's promotion has been changed but due to revision of seniority on the basis of judicial decisions, many others were also affected. In that view of the matter we find no scope to interfere with the decision to change the date of promotion of the applicant from 19.12.79 to 1.8.81. Consequently his pay was also revised.

8. In view of the above, we find no merit in this O.A. which is accordingly dismissed.

No costs.



MEMBER(J)



MEMBER(A)