

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 222 of 1997

Present : Hon'ble Mr. Mukesh Kumar Gupta, Judicial Member
Hon'ble Mr. M.K. Mishra, Administrative Member

1. NAYAN RANJAN KARMAKAR
2. ARUNANGSHU DEY
3. DWIJENDRA NATH SARKAR
4. SUKHA RANJAN KAR
5. RANJIT CHANDRA DAS
6. DILIP KUMAR HALDER
7. MOTILAL ROY
8. BANINATH GOSWAMI
9. GOPAL CHANDRA SHAW
10. PRADYUT KUMAR MOITRA
11. JATINDRA KUMAR DHAR
12. PULIN CHANDRA DEY
13. NARAYAN DUTTA
14. BIJOY KRISHNA MONDAL
15. RAGHUNATH DAS
16. DIPAK KUMAR PAUL
17. DHARANI MOHAN KARMAKAR
18. BENOY BEHARI GHATAK
19. GANESH CHANDRA SINGH
20. RAJEN MUKHERJEE
21. SUPROKASH CHATTERJEE

...APPLICANTS.

VERSUS

1. Union of India, service through the Secretary, Ministry of Defence, New Delhi.
2. The Engineer-in-Chief, Army Head Quarters, Kashmir House, New Delhi.
3. The Chief Engineer, Eastern Command, Fort William, Calcutta - 21.
4. The Chief Engineer, Calcutta Zone, Ballygunge Maidan Camp, Calcutta - 700019.
5. The Commander Works Engineer, 1, Strand Road, Calcutta - 700027.
6. The Garrison Engineer (Central), Hastings, Calcutta - 700022.
7. The Garrison Engineer, Fort William, 4 Red Road Camp, Calcutta - 700021.
8. The Garrison Engineer (South), Ballygunge Maidan Camp, Calcutta - 700019.

(Re)

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9. The Garrison Engineer (Alipore),
1, Strand Road,
Calcutta - 700027.

...RESPONDENTS.

10. Shyamal Kumar Dutta,
Electrician, Highly Skilled
Grade II, working for gain
at Garrison Engineer, Fort
William, Calcutta - 700021.

...PRIVATE RESPONDENTS.

For the applicant : Mr. S. N. Roy, counsel
Ms. S. Banerjee, counsel

For the respondents : Ms. K. Banerjee, counsel

Heard on : 24.11.04

Date of order : 21.12.2004

O R D E R

M.K. Mishra, A.M.

The applicant Shri Nayan Ranjan Karmakar along with 20 others filed this OA seeking reliefs as under :

- a) leave may please be granted to file this petition jointly as the applicants have got common interest and same relief sought for under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987.
- b) direction upon the respondents concerned to extend the benefit of the judgment and order passed in OA 43/91 (Swapan Kumar Roy & Ors. -versus- Union of India & Ors.) in case of petitioners/applicants and to pay all consequential benefits.
- c) direction upon the respondents concerned to step up the pay and allowances of the applicants to that of the pay scale of the private respondent who was/is junior to your applicants.
- d) direction upon the respondents concerned to pay all the arrears to the applicants to which the applicants are legally entitled to.

2. The reliefs sought by the applicant is in view of the decision in OA 43/91 of this Tribunal in the case of Swapan Kr. Roy & Ors. -vs- Union of India & Ors. vide order dated dated 17.6.94. The Hon'ble Tribunal held as under :

"We have given careful consideration to arguments advanced by the learned counsel for all the sides and considered the matter in all its aspects. Admittedly, all the private respondents are juniors to the applicants in the cadre of the Switch Board Attendants etc. The applicants were also promoted before the cut off date i.e., 16.10.81 as Electricians and

Electricians and they got the scale of Rs.330-480/-. The private respondents were first promoted and while they were enjoying the promotion the benefit of the upgraded scale in the cadre of SBA was given to the private respondents since that benefit was given retrospectively with effect from 16.10.81. Mr.Bag, learned d counsel for the respondents emphatically asserted that after the said circular of 1983 was enforced by the respondens the Electricians as well as the SBA etc. for separate cadre and they have separate lines of promotion. He also stated that the private respondents are functioning even now in the grade of SBA (UG) which was denied by the learned counsel for the applicants. However, on going through the reply filed by the private respondents we find that they are functioning as Electricians which shows that they are no longer functioning as SBA (UG) and they are very much functioning as Electricians. This indicates that there was no stagnation so far as the private respondents were concerned. The circular of 1983 gave the benefit of upgraded scale on the ground that the employees having no prospect of promotion and stagnating in the same cadre should be given the benefit of upgraded scale. Wdde find that this view was also taken and in fact, the whole issue was clarified by the respondents in their circular in 1987. But however, during the interregnum period between 1983 and 1987, because of the confusion created by the respondents themselves, the multiple benefits were given to the private respondents and this has created not only an anomalous situation but a situation which may be terms as discrimination. We are, therefore, of the view that the applicants cannot, be allowed to suffer because of certain mistakes on the part of the respondents. All the applicants are now functioning as Electricians and their juniors cannot be allowed to enjoy higher pay than them. This situation must be rectified.

For the reasons given above, the application succeeds. The respondents are directed to step up the pay of the applicants to the level of their juniors with effect from the date their juniors were drawing the higher pay. They should also be given all the consequential benefits. This action shall be completed within 4 months from the date of communication of this order. The application is disposed of accordingly. We pass no order as to costs."

3. The applicants also contended that despite being on equal footing, Sri Shyamal Kumar Dutta, private respondent No.10 being junior to all the applicants got promoted to the scale of Switch Board Attendant, Highly Skilled Grade II in the pay-scale of Rs.1200-18/- w.e.f. 7.10.85, vide order dated 14.10.91. Therefore, they are entitled to the stepping up of the pay w.e.f. the date Sri Shyamal Kumar Dutta was promoted.

4. The ld.counsel for the respondents contended that 21 applicants were initially appointed as SBA/Lineman/Wireman/Armature Winder, etc. functioning in different Garrison Engineers' formations. Briefly the facts are that prior to issue of codification of trades vide Govt. of India, Ministry of Defence letter dated 24.6.87

(Annexure R/4), Lineman, Wireman, SBA and Armature Winders all in the scale of Rs.210-290/- were in the feeder category for promotion to the post of Electrician in the scale of Rs.260-350/-. Therefore many of the applicants got promotion as Electrician and also got second promotion as Electrician. Highly Skilled Grade II on passing the Trade Test and subject to availability of the vacancy. It was further contended that the respondent No.10 Sri Shyamal Kumar Dutta opted for staying in SBA grade despite the fact that he passed the Trade Test of Electrician. Further it was contended that 10% posts of SBA were given higher pay-scale of Rs.330-480/- as per the instructions of Govt. of India, Ministry of Defence, vide letter dated 22.12.88 (Annexure R/2). According to this instruction Sri Shyamal Kumar Dutta, private respondent No.10 was given the benefit after 12 years of his service as SBA as per rules and procedures laid down therein. As per circular dated 17.5.88 the designation was converted from SBA to SBA HSK Gr.II on promotion prior to redesignation of the trades. The ld.counsel for the respondents also submitted that the private respondent No.10 Sri Shyamal Kumar Dutta had got only one benefit of higher pay in his service since 1972 till date, whereas the applicants have got two promotions one as Electrician and then as Electrician HSK Gr.II on passing the prescribed Trade Test. Therefore the case of Sri Shyamal Kumar Dutta is not comparable with the case of the applicants.

5. We have heard the ld.counsel for both the parties and also perused the pleadings as well as the order and decision of this Tribunal dated 17.6.94 in OA 43/91 and date 16.3.02 in OA 302/96. We observed that the private respondent No.10 Sri Shyamal Kumar Dutta did not avail the promotion to the post of Electrician despite the fact that he passed the Trade Test and he remained as SBA for a long period of more than 12 years. We further observed that he was given the scale of SBA HSK Gr.II after 12 years of service and in the light of the circular dated 22.12.88 of Ministry of Defence (Annexure R/2). Thus we are of the considered view that the case of Sri Shyamal Kumar Dutta is

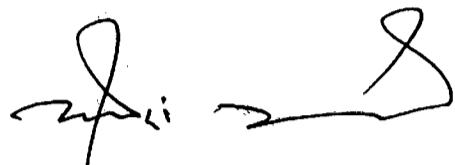
not on the equal footing as contended by the applicant particularly in the light of the fact that many of the applicants got two promotions in their service career.

6. The upshot of the above discussion leads us to the conclusion that this OA is bereft of merits. Therefore it is dismissed with no order as to costs.



MEMBER(A)

in



MEMBER(J)