

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL  
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O.A. No. 1188 of 1987

Babu Lal and others

Applicants

versus

Union of India & others

Respondents.

Shri N.K. Nair  
Shri K.C. Sinha

Counsel for applicants  
Counsel for Respondents.

Coram

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon. Mr. K. Obayya, Adm. Member.

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicants, feeling aggrieved, against the seniority list of Chargemen Grade I (Mech.) of the Ordnance Factories Board inclusive of those who were in the DGOF Organization as well as those who were transferred to the Organization of the DGOF from the Director General of Inspection Organization consequent upon the the transfer of stage/interstage inspection responsibilities from the DGI to the DGOF as per the Rajyadhyaksha Committee on recommendations of the Ordnance Factories, wherein the applicants who were seniors, were shown as juniors, have approached the Tribunal praying that the respondents be directed to fix the seniority of the applicants in the cadre of Chargeman Grade I on the basis of the seniority of the applicants in the cadre of Chargeman grade II and the seniority list published by the Ordnance Factories Board on 12.5.86 be recast/rectified. Subsequently

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by way of amendment yet another relief challenging the transfer of the applicants from DGI Organization to the DGOF Organisation without taking options, has been added..

2. Before opening his arguments the learned counsel for the applicant stated that the relief which has been claimed by the applicants by way of amendment has already been answered by some of the Tribunal <sup>and</sup> he is not pressing this relief and thus original relief only survives.

From  
3./ the facts, as appear from the pleadings of the parties, the plea of the respondents is that as per recommendations of Rajadhakshya Committee relating to the transfer of stage/inter-stage responsibilities from DGI to the DGOF, persons belonging to Ammunition Group etc. were shifted to DGOF Organisation in various Ordnance Factories. The principle that was applied was personnel to be transferred was "the man on the job". The Ministry of Defence in its letter dated 30.4.85 provided that the DGI employees including the applicants transferred to DGOF Organisation were assigned seniority in their respective grades in the DGOF Organisation with reference to their holding the posts on merger. The applicants were promoted to the grade of Chargeman grade I/T in D.G.I. Organisation with effect from 10.1.1981 and 12.1.1981 but the respondents, against whom the applicants are claiming seniority were promoted during June, 1980. Thus, the applicants were not promoted before the merger of the cadre from the DGI Organisation to the DGO Organisation. Consequent upon the merger of Chargeman grade II (T) with Supervisor grade II(T) the overall sanctioned strength of Chargeman grade I(T) and Chargeman Grade I (T) ~~and~~

in the ratio of 1 : 2 was maintained .The revised authorised strength of Chargeman grade I(T) and Chargeman Grade II(T) were 705 and 1410 respectively in DGI Organization. In DGOF Organisation the revised authorised strength of Chargeman Grade I(T) and Chargeman Grade II(T) were 2917 and 5936 and additional 1655 vacancies of Chargeman grade I (T) were sanctioned to the DGOF Organisation with effect from 1.1.1980. Supervisor 'A'(T) were awarded the pay scale of Rs 425-700 with effect from 1.3.1977 and on the merger of both the grades with effect from 1.1.1980, the seniority of erstwhile Supervisors 'A'(T).

4. According to the respondents, it was done through regular departmental promotion committee held during April/May, 1980 and May-July, 1980. There appears to be material in the version of the respondents and the same appears to be correct. The Departmental Promotion Committee found the Chargeman grade II(T) fit for promotion to the Charge grade I(T) and thereafter the promotion orders were issued in five batches in June 1980 and after this the final list of Departmental Promotion Committee was published. According to the applicants the Chargeman grade II/Tech of the D.G.I. Organization who had not been transferred to the DGOF Organization and were much juniors to the applicants, at the time when they were transferred from DGI to DGOF Organization, were already got higher promotions to the grade of Assistant Foreman while the applicants have been wrongly deprived of the promotion and persons junior

to them were promoted and have become senior in the higher cadre and the applicants have been deprived of their legitimate claim for the lapses on the part of the Organization and they have been made to suffer without any reason. The promotion rules from Chargeman grade II to Chargeman Grade I are different in DGI AND DGOF Organization. The Ministry of Defence letter dated 30.4.85, on which reliance has been placed by the respondents, does not in any way come in the way of the reliefs claimed by the applicants. The applicants were not given any opportunity to exercise option before transferring the applicants from DGI to DGOF and they could not refuse the transfer which otherwise would have resulted in disciplinary action.

5. The learned counsel for the applicant contended that the applicants should be given seniority over the juniors who were promoted. He made reference to the case of Employees Heavy Vehicle Factory/<sup>Avadi</sup> which was earlier beyond the purview of the DGOF Organisation and the said factory merged into DGOF Organization and the employees prior to the said merger were senior compared to the merged Chargemen grade II of the DGOF organisation but they were treated junior after merger and were not given promotion prior to 1980 to the post of Chargeman grade I. After the merger they got promotion only in August, 1981 and claimed back seniority. They approached Central Administrative Tribunal, Madras, which directed for considering the promotion of the petitioners as Asstt. Foremen and to place them if selected, above those who were promoted as Assistant Foremen by the said DPCs, which decision was implemented and in the year 1986

the petitioners were promoted as Asstt. Foremen. The applicants contend that they are even senior to such employees of Vehicle Factory and in this connection they have made reference to the seniority list which has been placed on record. After the said judgment, the applicants made representations to the Director General and the representation was rejected on the ground that the decision of the C.A.T was implemented only in the case of applicants of that case. It is because of this reason the applicants have filed this application. A perusal of the judgment of Madras Bench of the C.A.T. which has been placed on record by the applicants as Annexure A-6 states that the respondents stated before the Tribunal that they have decided to review the proceedings of the DPC of March 1983 like the earlier two DPCs and they have asked their counsel to inform the Court accordingly, with which the the applicants were satisfied.

6. The case of the applicant precisely is that it was an administrative lapse that the promotion was not considered and it is a settled principle that nobody is to suffer due to lapses on the part of the Govt.

See State of Maharashtra vs. J.A. Karandikar (AIR 1989 Supreme Court, 1133).

In the case of Madras Tribunal (Supra) also the persons said to be affected were granted relief. There appears to be no reason why the relief is not granted.

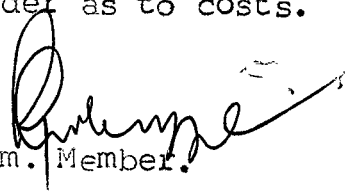
7. The respondents are directed to convene Review D.P.C. and consider the case of the applicants in this


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light as to whether they were entitled to promotion post earlier, if so, their case will be considered from that date and they may be given due place in the seniority list. Let it be done within a period of three months from the date of receipt of a copy of this judgment.

8. Application is disposed of as above, without any order as to costs.

  
Adm. Member.

  
Vice Chairman.

Shakeel/

Lucknow: Dated 15<sup>th</sup> Sep 1992