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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A. NO:

1989

RESERVED JUDGMENT

T.A. NO: 329

DATE OF DECISION 1<sup>st</sup> March, 1992.

Soma Shekara & Others

Petitioner

Sri Oak

Advocate for the Petitioners

Versus

U.O.I. & Others

Respondent

Sri Ramesh Darda

Advocate for the Respondent(s)

CORAM: Hon'ble Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. M.Y. Priolkar, Member(A)

The Hon'ble Mr.

The Hon'ble Mr.

By Hon'ble Mr. Justice U.C. Srivastava, V.C.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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(10)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH  
CIRCUIT BENCH : NAGPUR

Registration No.O.A. 329 of 1989

Soma Shekara & Others	....	Applicants
	VS.	
Union of India & Others	....	Respondents

Coram: Hon'ble Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. M.Y. Priolkar, Member (A)

Appearances:-

Sri Oak for the applicant &  
Sri Ramesh Darda for the respondents

judgment:-

(per: Hon'ble Mr. Justice U.C. Srivastava, V.C.)

Dated: 17 March, 1992, Nagpur

The applicants 19 in number joined the services in various Ordnance Factories either directly as Supervisor A Technical (Mech.) or as Supervisor B Technical and have later on been promoted as Supervisor A Technical (Mech.). All the candidates joined or were promoted to the said post of Supervisor A Technical (Mech.) in between the year 1967 to 1969. The recruitment condition of the Supervisor A Technical (Mech.) was governed by the Indian Ordnance Factories (Recruitment & Conditions of Service of Class III Personnels) Rules 1956 hereinafter known as the "Recruitment Rules". The feeder posts for promotion to the post of Chargeman Grade II were Supervisor A Technical (Mech.), Senior Rate Fixers, Senior Planners and Senior Estimators as well as Senior Draftsman. All these grades were then equal in pay-scale.

and are thus considered on the same level for promotion to the post of Chargeman Grade II Technical (Mech h.). The said post continued till the Second Pay Commission Report was in force till 31.12.1972. till then they were in the pay scale of Rs.205-280/- As a result of the recommendation of the Third Pay Commission Report which came into force on 1st January, 1973 50% of Senior Draftsmen were granted the pay scale of Rs.425-700 and the remaining 50% were granted the pay scale of Rs. 330-560/- and the categories of Supervisor A Technical (Mechanical), Senior Rate Fixers, Senior Planners and Senior Estimators were granted the pay scale of Rs.380-560/- with effect from 1.1.1973. In the meantime the 50% of Senior Draftsmen who had not been granted the pay scale of Rs.425-700/- approached the Court and ultimately the Supreme Court by its decision in the matter of P. Savita Vs. Union of India AIR 1985 SC page 1124 directed that the said 50% of senior Draftsmen also should be granted the pay scale of Rs.425-700/- with effect from 1.1.1973 itself as there was no justification to discriminate between the said categories. The revised pay scale of Supervisor A Technical (Mech.), Senior Estimators, Senior Rate Fixers, Senior Planners was fixed with effect from 1.1.1973 at Rs.380-560/- and the same was refixed at Rs.425-640/- vide Ministry of Defence letter, dated 10.5.1977. Later on the pay scale of Rs.425-640/- was amended and substituted by the pay scale of Rs.425-700/- with effect from 1.3.1977 vide Ordnance Factory, Chanda order dated 14.11.1977. Although some of the Senior Draftsmen were placed in the revised pay scale of Rs.525-700 with effect from 1.1.1973. As per the letter of Director General, Ordnance Factories, letter dated 4.7.78

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-3-

some of Draftsman were entitled to get revised pay scale of Rs.425-700/- with effect from 1.1.1973, whereas the Supervisor A Technical (Mech.) and other equivalent grades were entitled to get the same pay scale with effect from 1.3.1977 onwards. This disparity was challenged by the few Supervisors before the Calcutta Bench of Central Administrative Tribunal and during the pendency of the application the Director General proposed Ordnance Factories in consultation with Ministry of Defence that:

- (A) Pay scale of Rs. 425-700/- may be granted notionally with effect from 1.1.73.
- (B) Fixation of pay will be done at that basis.
- (C) No arrears on account of revised fixation of pay will be granted.
- (D) The proposal will be valid only if all the applicants accept the same.

The Ordnance Factories Board's proposal was accepted by CAT, Calcutta Bench by the applicants and also the petition was disposed of vide order dated 20.1.89.

2. Some of the Senior Draftsmen filed a Writ Petition No.312/81 Yogendrapal Singh & Others Vs. Union of India before the Madhya Pradesh High Court and the said application was allowed vide order dated 19.10.1983 and the respondents were directed to prepare an integrated seniority list of Senior Draftsmen and Chargeman Grade-II for the purpose of promotion to the post of Chargeman Grade-I. Another Writ Petition was filed in the same High Court vide Misc. Petition No.1944/84 H.L.Jamnotia and others Vs. Union of India & Others. The said petition was also allowed and the respondents were directed to treat the petitioners and all other Senior Draftsmen similarly situated as Chargeman Grade-II with effect from 1.1.73

and not from 4.7.78 and worked out all equities and claims on the aforesaid basis. The Govt. of India made an appeal against the said judgment of M.P.High Court which was dismissed. Thereafter the Govt. of India went in appeal to Supreme Court of India in the form of Special Leave Petition(S.L.P.) No.2801/02 of 1986 against the order of M.P.High Court. The S.L.P. too was dismissed on 28.7.86. In view of the decision of M.P.High Court the seniority of the Senior Draftsman was to be integrated with the Chargeman Grade-II but the seniority of Supervisor 'A' and other lower categories were not to be integrated. The Govt. of India published a list of Senior Draftsman integrating the seniority alongwith the Chargeman Grade-II vide letter dated 9.4.1987 implementing the order passed by the M.P.High Court. It has been stated that their seniority should have been restored giving benefit of the decision of the M.P.High Court, but this was not done. The respondents were constrained to file a petition in the High Court of Bombay which petition was registered as W.P.No.2707/84 and was admitted. The same was transferred to the Central Administrative Tribunal, Bombay Bench and was registered as T.A.No.324/87 and the said Transferred Application was allowed by the Bombay Bench of C.A.T. vide judgment and order dated 31.12.87. In the said judgment the Bombay Bench of C.A.T has given the following directions:

that

"We therefore, direct/ the respondents shall consider the cases of the applicants for their next promotion as Assistant Foreman(Tech.) from the date on which their juniors in the revised list were promoted to that post. If necessary, a special DPC may be constituted for that purpose. Other consequential benefits which may be due to the applicants on the basis of the revised seniority list may also be granted to them. As far as possible these directions should be complied with

within three months from today. The application is disposed of with these directions with no order as to costs."

3. An application was filed by one Sayeed Zamir Haider & Others before the Central Administrative Tribunal, Bombay Bench who were working as Senior Draftsman and on the recommendation of the IIIrd pay Commission they were treated as Chargeman Grade-III. Some of their colleagues had filed a Writ Petition in the High Court of Madhya Pradesh praying that they should be treated as Chargeman Grade-II w.e.f. 1.1.73. That Writ Petition was allowed by the M.P.High Court. The seniority list of chargeman Grade-II was amended and they were given promotion to the higher post of Assistant Foreman(Technical). But as the present applicants were not parties to the said Writ Petition they were not given the benefits of the judgment of M.P.High Court, and that is why they have approached the Tribunal. The Tribunal after/implementation of the decision given by the MP High Court (referred to above) and taking into consideration the seniority of the applicants(Draftsman) held that the applicants shall be considered by the respondents for their next promotion to the post of Assistant Foreman(Tech.) and the benefits which may be due to the applicants on the basis of the revised seniority list may also be granted to them. In the application which was pending before the Bombay Tribunal (M.P.Shah Vs. Union of India & Others Tr. Application No.440/86) an interim order was passed by the C.A.T., Bombay on 11.3.88. The interim order is as follows:-

(1) The respondents are directed to take some decision in the recommendations of the Working Group appointed by the

Director General of Ordnance Factories in its report dated 11.6.77 so far as giving the pay scale of Rs.425-700/- to the supervisors Grade-A(Technical), Senior Planners, Senior Estimators and Senior Rate Fixers with effect from 1.1.73 is concerned within four months from today.

(ii) We further direct that if the respondents hereafter promote anybody to the grade of Assistant Foreman Grade-I as on 9.4.1987, these promotions will be subject to the final outcome of this case. Each promotee shall be informed about this order specifically.

In the Shah's case an order was given that if the respondents promote anybody to the grade of Assistant Foreman on the basis of seniority list of Chargeman Grade-I the said promotion will be subject to the final order of this Tribunal. It was further held that the applicants are entitled to be considered for promotion to the post of Assistant Foreman on the basis that they held the post of Chargeman Grade-II with effect from 1.1.1973.

4. Learned counsel for the applicant contended that the respondents are continuing to promote persons who were junior to the applicants without considering the claim of the applicants for the said promotion to the post of Assistant Foreman, and that is why the applicants have approached the Tribunal praying that the respondents may be directed to consider the claim of the applicants for promotion to the post of Assistant Foreman before their juniors in the category of Chargeman Grade-II as on 1.1.73 and to grant seniority and other benefits on their promotion with effect from the date when their juniors have been granted promotions to the post of Assistant Foreman.

5. On behalf of the respondents it was contended that the applicants cannot claim the relief which was granted by the M.P.High Court in the case of Jamoti & Others Vs. Union of India & Others because the present applicants were not intervenor in the aforesaid cases, they were not eligible for getting benefits out of the order passed in the above case and also not applicable to them. It has been further stated by the respondents that the in T.A.No.324/87(Syed Zamir Haider & Others Vs. Union of India & Others) the seniority of Senior Draftsman and allied categories like supervisors etc was required to refixed with effect from 1.1.73.

6. From the facts as stated above it appears that in view of the decision of M.P.High Court which has got a seal of confirmation by the Supreme Court the applicants are entitled to get promotion to the post of Assistant Foreman(Technical) with effect from the date the juniors were promoted i.e. 1.1.1973 and the respondents cannot deny ~~denied~~ the promotion of the applicants. But the applicants shall get the notional promotion only and so far as the question of seniority is concerned the same is to be determined by the department itself in accordance with law taking into consideration the direction given by the M.P.High Court. Accordingly this application is allowed to this extent that the applicant shall be granted notional promotion to the post of Assistant Foreman with effect from the date their juniors were promoted and so far as the question of seniority is concerned the same will be determined by the department

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 vide R.F.O. form  
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-8-

in accordance with law taking into consideration the judgment and order of M.P. High Court and the decision of Central Administrative Tribunal which get a seal of conformation by the Supreme Court. Let the seniority be determined by the department within a period of 3 months from the date of communication of this order. No order as to costs.

  
Member (A)

  
Vice-Chairman.

12-March, 1992, Nagpur.

(sph)