

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH CAMP AT AURANGABAD.

ORIGINAL APPLICATION NO.121/2001

MONDAY, THE 15TH JULY, 2002.

Coram : Hon'ble Shri Justice Birendra Dikshit, Vice
Chairman.
Hon'ble Shri B.N. Bahadur, Member (A).

Shri Bhabatosh A. Bhattacharya,
S/o late Amulyachandra Bhattacharya,
Age 47 years, working as Chargeman-I(T),
ACP, Ordnance Factory, Bhusawal,
Dist. Jalgaon. .. Applicant.

(By Advocate Shri S.P. Kulkarni).

Versus

1. Union of India, through
Secretary, Ministry of Defence,
(Department of Defence Production),
Raksha Bhawan, At P.O.New Delhi-1.
 2. The Chairman,
Ordnance Factory Board,
Indian Ordnance Factories,
Department of Defence Production,
Ministry of Defence,
10-A, S.K. Bose Road
(Auckland Road),
At Post Calcutta.
 3. The General Manager,
Ordnance Factory,
(Defence), Government of India,
At Post & Tal. Bhusawal,
Dist. Jalgaon-425 203. ..Respondents.
- (By Advocate Shri R.R. Shetty,
for Shri R.K. Shetty).

Order (Oral)

{ Per : Hon'ble Shri B.N. Bahadur, Member (A) }

This is an application made by Shri B.A.
Bhattacharya seeking relief from this Tribunal, in
substance, as follows:-

"Direct respondents to consider antedating of
seniority with effect from 01.5.1982 or 11/83 in
the respective grade of Sr.D'man, transfer of
...2.



chargeman-II and consequential interse in Ch.I., etc. Consequential benefits are also sought specially prayer (e) which reads as follows: "Direct the respondents to publish seniority list of Sr.d'man/chargeman-II(T) D/man interse as on 01.11.1983."

2. We have seen the papers in this case and have heard Learned Counsel on both sides. At the very outset, Learned Counsel for Respondents submitted that this point, which is covered by judgment of Full Bench of this Tribunal made on 22nd December, 1995 in a batch of O.As. at the Principal Bench, a copy of which is placed at Exhibit R-2 (Page 143). We, therefore, straightway heard both the Learned Counsel on this aspect first.

3. The learned counsel for Respondents drew our attention to the facts and arguments made in the written statement of the Respondents on page 128 of the paper book. The relevant portion reads as follows: "In this connection, the Respondents submit the position regarding recruitment and posting of the applicant is as given below:

Category	Grade	Date
D'man Trainee	--	15.02.74
Further Training	--	15.02.76
Gradation as D'man	Rs. 330-560 pre-revised	16.08.76
Promoted to Sr. D'man	Rs.425-700 pre-revised	01.06.83
Appointed by transfer as Ch'man-I(T)	Rs. 550-750 pre-revised	08.01.97

4. The applicant who was holding the post of Sr.

D'man was granted the higher scale of pay of Rs.550-750 instead of Rs.425-700 by the Hon'ble Tribunal vide its judgment dated 24.03.95 in O.A. No.518/88 (copy enclosed at Annexure-J to the O.A. at page 63). It was submitted that the seniority in the grades of Chargeman-II is being determined at the factory level/basis and in the grade of Chargeman-I seniority is being maintained at the level of Ordnance Factory Board at Kolkata".

5. In this connection, Learned Counsel for Respondents made some efforts to explain this position and stated that the question before us really is whether the benefit can be given beyond what had been stated in the circular concerned and as per the benefit provided in the judgment of this Tribunal in OA No. 518/88. This is what the Respondents, in fact, are questioning in their statement reproduced above. Learned Counsel argued that the answer to this question has been squarely provided after detail discussion in the Full Bench and referred to para 80 sub para (ix) of page 250 of the paper book, where the conclusion of the Full Bench has been summarised which reads as follows:

"There are other orders which revised the pay scales of draftsman and senior draftsman. We are not concerned whether the benefit thereof has been given to the three viz. (i) those who have been treated as Chargemen-II from 1.1.1973 (ii) those who have been merged in the category of Chargemen II from 1.1.1980 and (iii) those appointed as such after 1.1.80 if any. To forestall further complication, we declare that merely because they have become entitled to any pay scale higher than Rs.425-700, it will not,

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ipso facto, mean that they are higher than Chargeman-II and they cannot claim any benefit based on that higher pay scale."

6. We have heard Learned Counsel for the Applicant Shri S.P. Kulkarni on this matter. The main ground taken by him was that there are other persons who have been provided benefit in the Factory at Varangaon and although the Applicant belongs to Bhusawal Factory he deserved the same. Learned Counsel Shri Kulkarni has brought out these facts in the rejoinder. While admitting that the main question has been answered by the Full Bench, he reiterated the aspect of discrimination as pointed out in the rejoinder at page 272 of paper book sub-para (d) which reads as follows:

"The applicant got promotion to Sr. D'man w.e.f. 6/81 in a standard/ functional post etc. cannot be equated with D'man. With above reference, the redesignation of Sr. D'man to Ch.man I(T) w.e.f. 01/97 is totally wrong and done arbitrary."

7. Without any amendment in the OAs or in the prayer clause, it is not open to the Applicant to expand the scope of the case by bringing in new prayer made orally on the basis of the statement made in the rejoinder. Learned Counsel for the Applicant did however, make a prayer that should therefore, be allowed liberty to file another OA on the ground of discrimination with liberty for condonation of delay, limitation and laches.


8. In view of the above discussions, it is clear that the matter is covered by aforesaid the Full Bench judgment and the relief as specifically prayed for in para 8 of the OA cannot be granted, in view of the

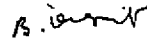
...5.



position settled in this Full Bench judgment. The OA will, therefore, liable to be dismissed and is, hereby dismissed.

9. In regard to liberty, prayed for, liberty can be provided to file another OA on the ground of discrimination. However, no condonation of delay can be provided by us at this stage. It will be open to the Applicant to satisfy the Bench, in case he chooses to file another OA. Application stands disposed of accordingly. No order as to costs.


(B.N. BAHADUR)
MEMBER (A)


(BIRENDRA DIKSHIT)
VICE CHAIRMAN

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