

(6)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

O.A.473/90

Ratish Chakraborty
Ch'man Gr.II Tech/Mech
Ordnance Factory, Bhandara,
and three others.

.. Applicants

versus

The Union of India
through its Secretary,
Ministry of Defence(Prod)
New Delhi and two others.

.. Respondents

Coram: Hon'ble Shri Justice S.K.Dhaon,
Vice-Chairman.

Hon'ble Shri M.Y.Priolkar,
Member(A)

Appearances:

1. Mr.K.D.Deshpande,
Advocate for the
Applicants.
2. Mr.Ramesh Darda
Counsel for the
respondents.

ORAL JUDGMENT:
(Per M.Y.Priolkar, Member(A))

Date: 18-9-1992

This application has been filed
by four employees of the Ordnance Factory, Bhandara
who were promoted to the posts of Supervisor 'A'
in the pay scale of Rs.425-700 with effect from
1-1-1979 and subsequently, on 1-1-1980, were
redesignated as Chargeman Gr.II, in the same
pay scale. They have the grievance that their pay
as Chargeman Grade II has not been stepped up to
the level of that of one Shri Gajbhiye who is
junior to them but is drawing higher pay on his
promotion as Chargeman Gr.II with effect from
15-3-1980.

2. In the Govt. of India, Ministry of
Finance O.M.dated 4-2-1966 read with Ministry of

Defence O.M. dt. 27-9-1974 it is laid down that the anomaly of a senior drawing less pay than his junior on promotion has to be removed by stepping up the pay of the senior to a figure equal to the pay fixed for the junior with effect from the date of promotion of the junior officer subject to the following conditions, namely :-

- (a) Both the junior and senior officer should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre;
- (b) The scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical; and
- (c) The anomaly should be directly as a result of the application of F.R.22-C.

3. It is not in dispute that in the present case both the applicants as well as the junior namely Shri Gajbhiye were holding posts in the same cadre of Supervisor 'B' before their promotion, and Shri Gajbhiye was junior to the applicants in that cadre. The higher promotion posts in which the anomaly has occurred on 15-3-1980 are also in the same cadre of Chargeman Gr.II. This satisfies the conditions at (a) and (b) above. The condition at (c) is also met since the anomaly has arisen directly by application of FR 22-C when the pay of the junior Shri Gajbhiye was fixed on his promotion as Chargeman Grade II on 15-3-1980 under FR-22C, the junior becoming entitled to draw higher

pay at Rs.485/- than the pay Rs.470/- drawn by the applicants as on that date. This has happened because his promotion was effective from a date shortly after his date of increment in the lower post namely 1.3.80 but the applicants were promoted shortly before the date of increment in the lower scale. In our view, therefore, since all the conditions entitling the employees to have the pay stepped up to the level of a junior employee are satisfied in this case, the applicants should also be entitled to have their pay refixed at Rs.485/- with effect from 15.3.1980 in terms of Govt. of India instructions cited above.

4. The respondents have opposed the application on the ground that two of the applicants were initially appointed in a different cadre altogether, namely, the cadre of Turner as against the cadre of Fitter in which Shri Gajbhiye was initially appointed. However, all of them were later promoted as ~~Supervisor~~ Grade B. Evidently under the Govt. of India orders cited above, the condition stipulated in this regard is that junior and senior officers should belong to the same cadre before their promotion to the next higher post in which the anomaly arises. Therefore, the fact that the posts in which the applicants and their junior ^{if we are in different cadres} were initially appointed, would not make any difference to the conclusion that we have reached earlier. The other ground urged by the respondents is that while Shri Gajbhiye was promoted directly from Supervisor grade 'B' to Chargeman Grade II, the applicants had been promoted from the post of Supervisor Grade 'B' initially to the Supervisor Grade 'A' and, subsequently, the posts of

Supervisor Grade A were redesignated as Chargeman Grade II. Admittedly, this redesignation is without any monetary consequences and the fact, therefore, remains that at the relevant time of promotion of the junior when the anomaly arose, the applicants as well as their junior Shri Gajbhiye were all on identical cadre of Chargeman Gr.II which satisfies one of the essential requirements of Government of India orders for stepping up of the pay of the senior. We do not, therefore, see any merit in the contentions raised on behalf of the respondents for denying the applicants the benefit of stepping up of their pay in relation to that of their junior Shri Gajbhiye.

5. The respondents are, accordingly, directed to step up the pay of the applicants to Rs.485/- with effect from 15-3-1980, namely the date on which the applicants' junior started drawing more pay than the applicants in accordance with the Government of India instructions referred to above. Consequential benefits like arrears of pay as also change of the date of option for pay fixation in the pay scales recommended by IVth Pay Commission shall also be allowed to the applicants.

6. The application is disposed of finally with these directions. There will be no order as to costs.

M.Y. Priolkar
(M.Y.PRIOLKAR)
Member(A)

S.K.Dhaon
(S.K.DHAON)
Vice-Chairman