

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

CIRCUIT SITTING AT NAGPUR

O.A. NO: 220/90

199

T.A. NO: ____

DATE OF DECISION 10-3-1992

B.K.Saha and 2 ors.

Petitioner

None

Advocate for the Petitioners

Versus

Union of India and others

Respondent

Mr.Ramesh Darda

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr.Justice U.C.Srivastava, Vice-Chairman

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

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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(U.C.SRIVASTAVA)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

CIRCUIT SITTING AT NAGPUR

(10)

O.A.220/90

B.K.Saha and 2 Ors.,
Asstt.F/Man,
Ordnance Factory,
Chanda
PO Chandrapur,
PIN 442 501.

.. Applicants

vs.

Union of India and 4 ors. .. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava,
Vice-Chairman.

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

Appearances:

1. None for the Applicants.
2. Mr.Ramesh Darda
Counsel for
Respondents.

ORAL JUDGMENT: Date: 10-3-1992
(Per U.C.Srivastava, Vice-Chairman)

The applicants who are Asstt.Foreman working in the Ordnance Factory, Ambajhari, Nagpur are the Diploma holders in the Mechanical Engineering and were recruited as Sup.'A' grade on various dates in between October '63 to December, '63. In view of the Chinese aggression in October, 1962 the Govt. of India took a decision to appoint qualified personals in the defence production and a result of which a policy decision was issued, and the applicants were also appointed in various Ordnance Factories as Sup.'A'. It was decided that the Diploma holders who joined as Sup.'A' will be entitled to be promoted as Chargemen Gr.(II) after completion of two years service. Accordingly after completion of two years of service the applicants were promoted as Chargeman w.e.f. 23-4-1966. Although the applicants were promoted after two years but their promotions were

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regularised by assigning proforma seniority to them. During this period some individuals such as S/Shri Akhilesh Chandra, A.O.Khan, D.N.Ram, and B.Singh all working in Ordnance Factory, who were not promoted even after two years of their service as Sup. 'A' filed a petition in the Supreme Court. Hon'ble Supreme Court observed that:

"If a large number of other persons similarly situated have been promoted as Chargeman Grade II after completing two years of service, there is no reasons why the appellants should also not be similarly promoted after completing the same period of service. We are not suggesting that the appellants are entitled to be promoted to the aforesaid posts even if they are found unfit to be promoted."

The respondents filed an application for clarification. The Supreme Court dismissed the same. The grievance of the applicants is that they have joined the various Ordnance Factories much earlier to those persons ~~mention~~ who approached the Supreme Court and were holding the post of Chargeman II much earlier than that of the above persons even before they were reassigned the seniority on the authority but they have not been promoted, and the promotions given have been to these persons. In the meantime the M.P.High Court vide its judgment dtd. 4-1-83 held that:

"All the petitioners are entitled to be treated as Chargeman II on completion of two years satisfactory services as Supervisor Grade 'A' and the petitioners are also entitled to get their present salary refixed after giving them seniority so that the same is not lower than those who are immediately below them."

SLP against the MP High court judgment was dismissed.

The respondents thereafter passed an order promoting S/Shri D.Rama, A.G.Khan and Nikhilesh who were junior to the applicants but the applicants could not get higher promotion that is why they have approached this Tribunal.

2. The respondents have opposed the claim of the applicants and pointed out that in view of the decision of the MP High Court against which SLP was dismissed there was no option before the respondents but to promote the applicants before the MP High Court. The seniority of S/Shri Dinanath Ram, A.Q.Khan and Akhilesh Chandra alongwith others ~~have been~~ was refixed/revised notionally under Board's letter dtd. 27-7-89 on the basis of the principles laid down by the MP High Court which laid down that:

"All these petitioners are also entitled to be treated as Chargeman-II on completion of two years satisfactory service as Supr.A. Consequently, notional seniority of these persons have to be refixed in the Supr.A, Chargeman-II, Chargeman-I and Assistant Foreman in cases those who are holding that post.. the petitioners are also entitled to get their present salary refixed after them notional seniority so that the same is not lower than those who are immediately below them."

3. The Union of India simply implemented the judgment of the MP High Court. While implementing the judgment of the MP High Court if someone gets promotion earlier or become senior obviously the respondent cannot be said at fault. The applicants were not party before the MP High Court and also not intervened. They have also not approached the Supreme Court upto now or MP High Court by way of review. As such the respondents have rightly applied the judgment of the

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MP High Court against which SLP was ~~not~~ dismissed. Accordingly as the position stands today no relief can be granted to the applicants even if they were senior to those persons who ~~were~~ have been promoted. With this observation the application is dismissed. There will be no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman

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