

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 1261/92

DATE OF DECISION: 4th Nov, 92

Shri V.K. Kshirsager and others Applicant.

Shri S.P. Saxena Advocate for
Applicant.

Versus

Union of India and others Respondents.

Shri P.M. Pradhan. Advocate for
Respondent(s)

CORAM

Hon'ble Shri D.S. Baweja, Member (A)

Hon'ble Shri S.L. Jain, Member (J)

(1) To be referred to the Reporter or not? No
(2) Whether it needs to be circulated to No.
other Benches of the Tribunal?
(3) Library. No.

(S.L. Jain)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI.

ORIGINAL APPLICATION NO: 1261/92

the 4th day of NOVEMBER 1999

CORAM: Hon'ble Shri D.S.Baweja, Member (A)

Hon'ble Shri S.L.Jain, Member (J)

1. V.K.Kshirsagdar
Supervisor 'B' (Tech)
Ordnance Factory
Bhandara.
2. D.J. Satpute
Supervisor 'B' (Tech)
Ordnance Factory,
Bhandara.
3. N.M. Joshi
Supervisor 'B' (Tech)
Ordnance Factory
Bhandara.

...Applicants

By Advocate Shri S.P.Saxena.

V/s

1. Union of India through
The Secretary
Department of Defence Production
Ministry of Defence, DHQ PO
New Delhi.
2. The Chairman
Ordnance Factory Board
10A, Auckland Road,
Calcutta.
3. The General Manager
Ordnance Factory
Bhandara.
4. The Senior Quality
Assurance Officer,
Quality Assurance
Establishment (ME)
Jawaharnagar, Bhandara.

...Respondents.

By Advocate Shri P.M.Pradhan.

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O R D E R

(Per Shri S.L.Jain, Member (J))

This is an application under Section 19 of the Administrative Tribunals Act 1985 seeking the reliefs as mentioned below:

- a) to allow the applicants to file application jointly.
- b) to direct the Respondents to reckon their seniority in the grade of Supervisor B (Tech) on the basis of their initial date of appointment under respondent No.4, and to list their names at appropriate places accordingly.
- c) to direct the respondents to call review DPC and to consider the case of applicants for their promotion to the next higher post of chargeman Grade II, and Chargeman Grade I from the date their juniors of the seniority list, recast as per 8(b) above, are promoted.
- d) to direct the respondents to pay all consequential benefits arising out of above 8(b) and 8(c) clauses, including difference of arrears of pay etc.
- e) to award cost of application to the applicants.
- f) to pass any other appropriate orders in the facts and circumstances of the case.

2. At the commencement of the arguments the learned counsel for the applicant stated that he does not press for relief as mentioned at para 8(b) of the application as stated above in para 1(b) of the order.

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3. The applicant's case in brief is that after passing B.Sc they had initially joined as Junior Scientific Assistants Grade II at the office of respondent No.4 under the Director General of Inspection of Ministry of Defence production on 2.4.1973, 1.9.1973 and 20.2.1974 respectively which carry out the inspection of all defence stores produced by factories. By a policy decision of the Government of India, Ministry of Defence, A large number of staff and officers including the applicants in October 1984 were transferred from different Inspectorate Establishments, although as per original scheme, the option of the staff was required to be taken. The scale of J.S.A.II and Supervisor 'B' (at the factory side) was similar one i.e. Rs.380-560 and hence the applicants were designated as Supervisor 'B' (Tech). The seniority list of Supervisor 'B' is maintained on the factory wise basis and the applicants were placed in the seniority list on the basis of their joining the respondent No.3 .They requested the respondent No 3 to promote them to the next higher post of Technical Chargeman Grade II(Chemist) on the basis of above seniority, a number of junior staff of Supervisor 'B' grade are already promoted to the post of Chargeman Grade II post, Superseding the applicants, of which was rejected by the respondent No.3 on the ground that their seniority is initial date of appointment as JSA II, and they are not superseeded by juniors on the basis of

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seniority given to them vide Annexure A/4. The said representation is not forwarded to respondent No.2, Inspite of request for the same. Hence further representation dated 3.12.1985, 12.2.1986, 31.10.1986, 15.3.1989, 5.7.1991, 9.6.1992 and 30.8.1992. In the meantime, large number of other staff of Supervisor (Tech) 'B' grade appointed under Respondent No.3. Much after the said dates of initial appointment of the applicants were placed senior to the applicant and they are also promoted to Higher post of Chargeman Grade II superseeding the applicants. The representation were not replied for and hence last representation dated 9.6.1992 was submitted to the respondent No.2 which was rejected by respondent No.3 vide order dated 7.9.1992.

4. Even after lapse of 18-19 years they could not be promoted and there is a bleak chance of promotion to them on the basis of the said seniority list. They moved an application Exhibit A/6 to the respondent No.3 to consider their case under the carrier advancement of Group 'C' and Group 'D' employees published under order No.98 dated 9.5.1992 and 154 dated 22.8.1992 but the respondent No.3 has rejected the same vide order dated 5.9.1992 Exhibit A2. Hence, this DA for the above said reliefs.

5. The claim is resisted by the respondents on averments that the application is barred by time, as the applicants applied for the same in November 1985 and their prayer was rejected by the department by letter dated 26.11.1985 vide Annexure 4, on the recommendation of Rajadhyaksha Committee relating to transfer of

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State /inter state inspection responsibilities from the Director General of Inspection, now known as Director General of Quality Assurance, to Director General of Ordnance Factory, orders were issued by the Government to transfer the inspection responsibilities with the "man on the job" from the Director General of Quality Assurance to Director General of Ordnance Factory and on the basis of said orders the applicants were transferred from Inspectorate of Military Explosives (now known as Quality Assurance Explosives) Bhandara to Ordnance Factory Bhandara alongwith many employees on permanent basis as per order Exhibit 1. The said transfer was challenged in OA 830/98 before this Bench by other employee Shri Bapat and the same was dismissed vide Exhibit R2. After redesignation as Supervisor(Tech) B (Chem), their seniority was fixed on the basis of the dates they were holding the initial appointment of JSA II under respondent No.4 and not from the date of joining the respondent No.3 on 23.10.1984. In 1984, the respondent No.2 issued an order banning the promotion to the Grade of Chargeman Grade II Tech including Chemical Trade and the same is still inforce, hence request for promotion could not be considered, no juniors to the applicants were promoted from Supervisor 'B'/Chem. to Chargeman Grade II/Chem. after joining of the applicants - the organisation under respondent No.3. The demand of the applicant was that their seniority should be fixed by including them in seniority list of Supervisors 'B'/Chem. prepared before they joined in the organisation under respondent No.3 alongwith all benefits which cannot be accepted. As respondent No.3 is the

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appointing authority it was not necessary to forward the representation to respondent No.2. Application dated 9.6.1992, was forwarded to the respondent No.2 who in turn confirmed the order of the respondent No.3. The applicants have no claim.

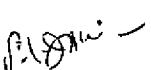
6. The applicants have requested for considering them "INSITU" promotion which is applicable to Group 'C' and 'D' employees whose pay on appointment is fixed at the minimum of the scale and employees who have not been promoted on regular basis even after one year on reaching the maximum of the scale of such post. It further applies to a person - post in one organisation in the same scale, when a directly recruited person junior to him in the new organisation whose pay was fixed at the minimum of the scale becomes eligible for promotion i.e. junior has to be promoted "INSITU" then only he will be eligible. As the applicants have not reached the maximum of the scale, they are not entitled for any relief. Order in OA 626/88 passed by this Bench subject to Special Leave Petition No. 12942/92 before the Apex Court and the same is pending but operation of the order is stayed. Hence prayed for dismissal of OA alongwith costs.

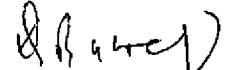
7. In view of the fact mentioned in para 2 of this order, orders passed in OA 830/88 Chandrakant Mukundrao Bapat V/s Director General of Inspection and others decided by CAT Bombay Bench, Camp at Nagpur, OA 628/88 R.Shrinivasan V/s Union of India and others decided by CAT Bombay and the order passed in Special Leave Petition (c) No. 12992/92 arising from the order passed in OA 628/88 deserves no consideration.

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8. No person junior to the applicant is promoted after their joining the organisation. Amongest other conditions one of the condition for consideration for "INSITU" is that " an employee who have not been promoted on regular basis even after one year on reaching the maximum of the scale of such Post" The applicants does not claim that they fulfill the said condition and the respondent claims that the applicants do not fulfill the said condition. In the circumstances, the applicant is not entitled to promotion in view of the said scheme 'INSITU'.

9. In the result as part of the relief is provided even earlier to the filing of OA to the applicants by the respondents themself and for the remaining relief of promotion, they are not entitled for the same. Hence OA is liable to be dismissed and is dismissed accordingly with no order as to costs.


(S.L.JAIN)
MEMBER(J)


(D.S. BAWEJA)
MEMBER (A)

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