

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 2/92

~~Transfer Application No.~~

Date of Decision : 10.10.95

Shri M.K. Banerjee

Petitioner

Shri S.P. Saxena

Advocate for the
Petitioners

Versus

Union of India & Others

Respondents

Shri R.K. Shetty

Advocate for the
respondents


C O R A M :

The Hon'ble Shri B.S. Hegde, Member (J)

The Hon'ble Shri M.R. Kolhatkar, Member (A)

(1) To be referred to the Reporter or not ?

(2) Whether it needs to be circulated to other Benches of the Tribunal?


(B.S. Hegde)
Member (J)

ssp.

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. 2/92

Shri M.K. Banerjee ... Applicant
v/s

Union of India & Others ... Respondents

CORAM : 1) Hon'ble Shri B.S. Hegde, Member (J)
2) Hon'ble Shri M.R. Kolhatkar, Member (A)

APPEARANCE : 1) Shri S.P. Saxena, counsel for the Applicant.
2) Shri R.K. Shetty, counsel for the Respondents.

JUDGEMENT

Dated: 11. 10 95

(Per: Hon'ble Shri B.S. Hegde, M(J)).

1. The Applicant joined the Ordnance Factories organisation as a "Trade Apprentice" on 1-7-1963 at Calcutta. Later, he was regularly appointed as Miller 'B' w.e.f. 1-1-1968 at Ordnance Factory, Dehradun. The Applicant appeared for "Supervisor A Grade Probation" training scheme against open advertisement and he was selected for the same. He completed his training in September 1974 and was appointed and absorbed as Supervisor Grade 'A' (Mech); then, he was transferred to High Explosive Factory, Poona in the scale of pay of Rs. 425-700. Thereafter, the Applicant was promoted as Chargeman Gr.II (Mech) w.e.f. 1-1-1980 as the scale of pay for the post of Supervisor Grade 'A' (Mech) as well as that of Chargeman Gr. II (Mech) was one and the same i.e. Rs. 425-700. The Respondents circulated a seniority list which was showing position as on 1-1-1983 wherein

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the Applicant's name is listed at two places i.e. at S.No. 275 and 928; however, the same has been rectified vide its order dated 3-8-1989. The Applicant was posted as Chargeman Gr. I (Mech) (Annexure-5) vide its order dated 23-7-1984 at the Ammunition Factory, Kirkee and accordingly he joined. Later on, the Respondents vide its order dated 8-8-1984 cancelled the promotion order passed vide Annexure V vide dated 30-7-1984. He made a representation on 6-7-1985 against his reversion. Reply was given by the Respondents vide letter dated 17-10-1985 stating that his promotion order has been cancelled pursuant to the deletion of his name from the relevant selection list dated 26-3-1989 following the amendment of his seniority position in the Central seniority list of Chargeman-II(Mech) as on 1-1-1983 under letter dated 28-2-1985 etc. Thereafter, the amended seniority list of chargeman Gr.II was published on 28-11-1985; even in that list, the name of the Applicant did not figure in. Again, he made representation on 28-12-1985; however, still the position is not resolved and no reply has been given by the Respondents.

2. The contention of the Applicant is that similarly placed Ex-supervisor 'A' filed an application before Jabalpur Bench and same relief should be given to the Applicant also. Accordingly, the Applicant filed this O.A. praying for the following reliefs :

- a) to direct the Respondents to enlist his name in the seniority list of Chargeman Gr.II in accordance with the judgement of CAT Jabalpur as the said judgement is vital in preparing the seniority list of Chargeman Gr.II post.
- b) to direct the Respondents that after preparing the seniority list of Chargeman II as 8(a) above, they should consider the applicant for his promotion to the post of Chargeman Gr.I from the date his juniors are promoted to the post of Chargeman I.
- c) to direct the Respondent to correct the seniority position of applicant in the grade of Ch/m Gd.I as on 1-1-90 on the basis of the exercise prayed at 8(a) and 8(b) above.
- d) to direct the Respondents to give all consequential benefits to the Applicant.

3. The Respondents in their reply have controverted various contentions of the Applicant and stated that as per the implementation of C.A.T. Jabalpur Bench judgement in OA 482/87 the petitioners were given the benefit of the seniority in Supervisor 'A'/Chargeman Gr.II from the date of joining in training and the non-applicant were not given such benefit of proforma promotion in Chargeman Gr.I. It is stated that the Section A/NI granted notional seniority in Supervisor A/Chargeman Gr.II to the non-applicant also. The Respondents have not denied that the persons junior to the applicant have been promoted to the post of Chargeman Gr.I prior to the applicant. As per the decision of the Jabalpur Bench, seniority in Supervisor

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A/Chargeman Gr.II is to be given effect from the date of entry and not on the basis of completion of training.

4. In the light of the above, the short question for consideration is whether the persons junior to the Applicant have been promoted to the post of Chargeman Gr.I. It is true that as per the seniority list dated 3rd August 1989, applicant's seniority is shown at 275. Though his name appears at 275, his juniors have been promoted and not the Applicant. It is also seen that seniority list as on 1-1-1983 has been circulated only in 1985. The Respondents vide their order dated 13-8-1990 have given proforma promotion to the persons junior to the Applicant ante dated i.e. with effect from 26-7-1984 whereas the Applicant was appointed as Chargeman ^{Gr.I} ~~as~~ on 26-4-88. (Ann.12) against which he represented on 3-9-1990 seeking for the same date of proforma promotion as that of his juniors. It is ^{an} undisputed fact, that Chargeman Gr.I seniority issued only on 15-1-1991; nevertheless, the Applicant is regularised as Chargeman Gr. I with effect from 26-4-1988 only, the date of his ad hoc promotion against which he made representation but no reply has been given by the Respondents. Accordingly, he urged that the Respondents be directed to consider the case of the Applicant to give him promotion from the date his juniors have been promoted to Gr.I post i.e. from 1984 onwards. Accordingly, in this O.A. the Applicant has challenged the seniority position of Chargeman Gr.II and I. As per the seniority list referred to above, his name is shown at two places S.No. 275 and 928. On the basis of his seniority at 275, he was rightly posted by DPC to next higher grade w.e.f. 30-7-1989.


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However, the Respondents reverted the Applicant to the post of Chargeman Gr. I on 18-6-1985 and on the basis of the seniority at 928 which is found to be incorrect. The Respondents have filed a very short reply without adverting the contentions raised by the Applicant; therefore, the Applicant contended that based on seniority at 275 of Chargeman Grade II, he was accorded promotion by DPC to higher post of Chargeman Gr. I w.e.f. 30-7-1984. But his other batchmen were accordingly listed and promoted to higher post as Chargeman Gr. I w.e.f. 30-7-1984 to the post of Chargeman Gr. I. They filed O.A. 482/89 before Jabalpur Bench in respect of proper seniority and consequential benefit of promotion of Chargeman Gr. I w.e.f. July 1982. That O.A. is allowed by the Hon'ble Tribunal. Consequent thereupon, the Respondents have given proper seniority to his juniors and reverted the Applicant to lower grade of Chargeman Gr. II which he states is not correct. Therefore, he contends that he is also entitled to be considered for promotion w.e.f. 26-7-1984 to the post of Chargeman Gr. I alongwith his juniors which position is denied till now.

5. In the light of the above, and on perusal of the record, the contention raised by the Applicant has a considerable force. No positive reason has been assigned in reverting the Applicant; the only reason is that pursuant to the decision of Jabalpur Bench they have to regularise the seniority list; that does not ipso facto reduce the seniority already granted to the Applicant. As stated earlier, his batchmen would not get promotion alongwith the applicant for which O.A. in Jabalpur Bench was filed and got the relief. While renewing the seniority list, the Respondent is not expected to revert the

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the persons who are otherwise correctly placed at the proper seniority whereas in the present case Respondents while recasting the seniority list reverted the Applicant without any reasons. In the circumstances, the O.A. is partly allowed and we direct the Respondents to consider the request of the Applicant to promote him to the post of Chargeman Gr. I w.e.f. 30-7-1984 i.e. from the date his juniors have been promoted. This exercise may be done within a period of 3 (three) months from the date of receipt of this order. No order as to costs.


(M.R. Kolhatkar)
Member (A)


(B.S. Hegde)
Member (J)

ssp.