

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 1308/94.

Date of Decision:

10-3-2000

V. I. Abraham

Applicant.

Mr. R. C. Ravlani

Advocate for  
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Mr. R. K. Shetty

Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice-Chairman,

Hon'ble Shri. Shri B.N.Bahadur, Member (A).

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?
- (3) Library?

  
(R.G. VAIDYANATHA)  
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.1308/94.

this the 10<sup>th</sup> day of March 2000.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,  
Hon'ble Shri B.N.Bahadur, Member (A).

V. I. Abraham,  
21/2, Club Road,  
Ordnance Estate,  
Khadki,  
Pune - 411 003.  
(By Advocate Mr.R.C.Ravlani)

...Applicant.

Vs.

1. Union of India  
through the Secretary,  
Ministry of Defence,  
South Block,  
New Delhi - 110 011.
2. The Chairman,  
Ordnance Factories Board,  
10-A, Auckland Road,  
Calcutta - 700 001.
3. The General Manager,  
Ordnance Factory,  
Bolangir (P),  
Badmal (Orissa),
4. The General Manager,  
Ammunition Factory,  
Khadki,  
Pune - 411 003.  
(By Advocate Mr.R.K.Shetty)

...Respondents.

: ORDER :

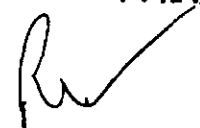
(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

This is an application filed under section 19 of the Administrative Tribunals Act, 1985. The respondents have filed reply. We have heard Mr.R.C.Ravlani, the learned counsel for the applicant and Mr.R.K.Shetty, the learned counsel for the respondents.

2. The applicant has approached this Tribunal being aggrieved by the order of reversion dt. 27.11.1993. The facts necessary for the disposal of this application are as follows.

The applicant, who was a Diploma-holder in Electrical Engineering, joined the Small Arms Factory at

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Kanpur as Supervisor 'B' Grade on 5.9.1963, who was subsequently promoted as Supervisor 'A', then as Chargeman Gr.II and Assistant Foreman. The applicant and some others filed a writ petition in the M.P. High Court in M.P. No.174/81. That application was allowed by the High Court by order dt. 4.4.1983 and applicant's initial appointment was treated as in Supervisor Gr. 'A' from the date of initial appointment. The applicant got consequential benefits like promotion to Chargeman Gr.II and later as Assistant Foreman. Subsequently, the applicant has been promoted as Foreman by order dt. 28.7.1989. Now, the respondents have cancelled the order of promotion as Foreman and reverted him to the post of Assistant Foreman, presumably on the basis of the Judgment of the Calcutta Bench of the Tribunal dt. 30.12.1991 in OA No.99/91. It is alleged that applicant was not a party before the Calcutta Bench and that order did not apply to him. Therefore, the order of reversion is bad in law. Hence, the applicant has approached this Tribunal for quashing the order of reversion dt.27.11.1993 and for further cosequential benefits.

3. The defence is that the order of reversion is perfectly valid in view of the Judgment of the Calcutta Bench of the Tribunal. Though the applicant was given seniority on the basis of the Judgment of M.P. High Court, that seniority list was challenged before the Jabalpur Bench of this Tribunal in O.A. 217/87. The Jabalpur Bench of the Tribunal has quashed the seniority list and gave a direction for preparing fresh seniority list. Then, the aggrieved persons who were the beneficiaries of the Judgment of the M.P. High Court took the matter in appeal before the Supreme Court. The Supreme Court has dismissed the appeal by upholding the Judgment of the Jabalpur Bench of the Tribunal. Therefore, the applicants can no longer get

the benefit under the Judgment of the M.P. High Court which is no longer valid in view of the Judgment of the Supreme Court reported in (AIR 1994 (SC) 244). In view of this legal position, the applicant's reversion is perfectly justified. Hence, it is stated that the applicant has no case and the application be dismissed with costs.

4. At the time of argument, it is now conceded before us that fresh seniority<sup>list</sup> has been prepared as per the directions of the Tribunal and on that basis the applicant has since been promoted as Foreman again on 30.11.1998. Now, therefore, the point of controversy is about the reversion of the applicant from the post of Foreman from 27.11.1993 till 30.11.1998. The learned counsel for the applicant contended that applicant should not have been reverted till the seniority list was prepared and finalised. For this proposition, he relies upon the Judgment of the Full Bench of the Tribunal. The learned counsel for the respondents submitted that applicant's reversion is prior to the Full Bench Judgment and therefore, directions given in the Full Bench Judgment will not apply to the applicant's case. Since applicant had lost seniority in view of the Judgment of the Jabalpur Bench of the Tribunal and confirmed by the Supreme Court, the applicant could not have been continued in the post of Foreman and therefore, he was rightly reverted and he has been subsequently again promoted after his turn came as per the new seniority list. We will examine these two contentions now.

5. The applicant's counsel contended that applicant could not have been reverted on the basis of the Calcutta Bench Judgment, since he was not a party to that Judgment. Reliance was placed for this argument on a Full Bench Judgment of this Tribunal at Jabalpur Bench in

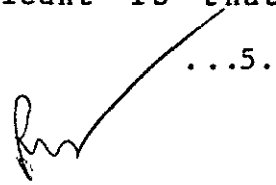
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H.S.Ramamoorthy and Ors. Vs. Union of India & Ors. - (1995)  
30 ATC 341 (FB). No doubt, the Full Bench has held that the Judgment of the Calcutta Bench of the Tribunal applies only to the parties to that case. This Judgment of the Full Bench was delivered on 16.12.1994, it will not help the applicant in any way since applicant's reversion order was passed on 27.11.1993. Before the clarification came from the Full Bench on 16.12.1994, applicant and others had already been reverted on 27.11.1993.

Even granting for a moment that the Judgment of the Calcutta Bench applies only to parties to that case, as has been held by the Full Bench, it does not debar the administration from giving effect to the principle laid down in the Judgment to other employees who stand on the same footing. The administration is not bound to extend the benefit of a Judgment to other officials, but in a given case the administration may extend the benefit of the Judgment to other employees instead of driving each employee to approach a Court or Tribunal. The Calcutta Bench gave some reasons for striking down the seniority list, and struck down the promotion of some others like the applicant. The administration could have applied that Judgment only to the Private Respondents to that case and kept quiet. But, there is no legal bar to the administration to extend that principle to the entire seniority list of other officials in the same department. Further, this has been done by the administration before the clarification was given by the Full Bench. Hence, no relief could be given to the applicant on the basis of the clarification issued by the Full Bench since applicants reversion was much prior to the Judgment of the Full Bench.

6. The other submission by the applicant is that

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applicant could not have been reverted on the basis of the reasoning given by another Full Bench in A.K.Mukhopadhaya's case reported in 1994 - 1996 CAT Full Bench Judgments 313. In particular, applicant's counsel invited our attention to paras 79, 80 and 81 of the Judgment of the Full Bench.

In para 79, the Full Bench referred to observations in an earlier Judgment of a Division Bench in OA 695/93 dt. 28.9.1995. The observations are extracted in para 79 of the Full Bench Judgment. The observations are that in cases of dispute regarding seniority etc. an official who has been promoted earlier need not be reverted and he can be continued by creating a supernumerary post. But, it is clearly stated that an employee can be reverted if the cadre is full and he cannot be accommodated. It is further stated that reversion will be of the juniormost person. Then, it is further added that in appropriate cases, Courts can give directions that reversions need not be made. The Full Bench observed that these observations shall apply to the cases before them.

The Full Bench has not held that in case of seniority dispute, no reversion shall take place. It was only giving a general guideline that reversion can be avoided by giving suitable directions. It has made it very clear that if there is no vacancy and cadre is full, then reversion has to follow. Whatever may be the directions of the Full Bench, we find that the judgment of the Full Bench is dt. 22.12.1995. Therefore, the <sup>Full Bench</sup> ~~Full Bench~~ was giving a direction for further compliance viz. reversion can be avoided as far as possible. Such an observation in the Judgment dt. 22.12.1995 cannot help the applicant since he has already been reverted two years earlier in September, 1993. The Full Bench never stated that all earlier



reversions should be quashed and those officials should be again re-promoted. Therefore, we find that the observations of the Full Bench are prospective in nature and it will not apply to applicant's case since he had been reverted two years earlier.

It may be, that in Ramamoorthy's case the Full Bench quashed the reversion order of the applicant in that case dt. 5.5.1993. Even then, the Full Bench observed that if, after recasting the seniority list, it becomes necessary, then the applicants can be reverted. The Full Bench in Ramamoorthy's case has not stated that all similar orders of reversion of other employees were not parties to the Full Bench and who have not challenged the reversion will also stand quashed. There is no such blanket order in both the Full Bench Judgments. Both the Full Bench Judgments are one year and two years respectively from the date of applicant's reversion. Hence, applicant cannot get benefit of those two judgments.

7. It is not, as if, the applicant's reversion was not according to law. Seniority has been recast in 1997 and on that basis the applicant was bound to be reverted in 1997. But, the administration decided to revert him in 1993 on the basis of the judgment of the Calcutta Bench of the Tribunal since a principle had been settled by the Calcutta Bench Judgment about seniority. We have already noticed that applicant has since been promoted on the basis of the revised seniority list w.e.f. 30.11.1998. Hence, no relief can be given to the applicant in respect of the earlier reversion. However, since applicant has been promoted and he has been reverted on the basis of a Judgment

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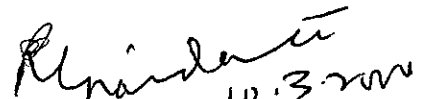


of a Tribunal, we direct that the salary paid to the applicant in the promotional post shall not be recovered from him notwithstanding his reversion. We may also note that applicant's promotion as Foreman was a <sup>provisional</sup> promotional promotion and that was reversed in view of the Judgment of the Calcutta Bench of the Tribunal.

8. In the result, the application fails and it is hereby dismissed, subject to the direction that respondents shall not recover the salary paid to the applicant in his promotional post notwithstanding the order of reversion dt. 27.11.1993.



(B. N. BAHADUR)  
MEMBER (A)

  
10.3.2004  
(R. G. VAIDYANATHA)  
VICE-CHAIRMAN

B.