

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA.NOs. 899/93 & 52/94

Monday this the 21st day of June, 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S.Baweja, Member (A)

OA.NO. 899/93

1. Hari Nago Koli,
T.No. 3710, Tool Room,
Ordnance Factory,
Varangaon.
2. H.D.Patil,
T.NO. 5549, Tool Room
Ordnance Factory,
Varangaon.

... Applicants

By Advocate Shri D.V.Gangal
V/S.

The Union of India,

1. The Chairman,
Ordnance Factory Board,
10, Auckland Road,
Calcutta.
2. The Divisional Manager,
Ordnance Factory,
Varangaon.

... Respondents

By Advocate Shri R.K.Shetty

OA.NO. 52/94

1. R.D. Bavaskar
Asst.Foreman (T)
2. G.C.Karar,
Asst.Foreman (T)
3. S.K.Pal,
Chargeman Gr.I(T)
4. S.Banerjee,
Chargeman Gr.I(T)
5. M.T.Phalak,
Chargeman Gr.II(T)
6. R.M.Phaltankar,
Chargeman Gr.I (T)
7. B.P.Bisopia,
Chargeman Gr.II(T)

Ordnance Factory, Varangaon.

... Applicants

By Advocate Shri D.V.Gangal

v/s.

The Union of India through

1. The Chairman,
Ordnance Factory Board,
10, Auckland Street,
Calcutta.
2. The General Manager,
Ordnance Factory,
Varangaon.
3. The General Manager,
Machine Tools Prototype Factory,
Ambernath, Dist. Thane.

... Respondents

By Advocate Shri R.K.Shetty

O R D E R

(Per: Shri Justice R.G.Vaidyanatha, VC)

These are two applications filed by the applicants in these two cases praying for higher pay scale for Grinders in pursuance of the judgement of the Calcutta Bench of the Tribunal in TA.MC.1361/86 and TA.MC. 1248/86. The respondents have filed reply opposing both the applications. We have heard the learned counsel appearing on both sides.

2. The Grinders in these cases are seeking higher pay scale as per the law laid down by the Calcutta Bench in the above two transferred cases. Their main case is that they are similarly situated as the applicants in those two cases and therefore they are entitled for higher pay scale as held by the Calcutta Bench.

It is not necessary to go into the pleadings of both the cases since the point involved is a short question.

The whole basis is the judgement of the Calcutta Bench. If we ignore the decision of the Calcutta Bench, then normally it is a question of policy matter about the fixation of pay scale, promotional avenue etc. The role of Tribunal in a policy matter is very limited and we should not interfere in such matters. That is why the applicants are merely basing their case on the Calcutta Bench judgement.

3. It is brought to our notice that after the judgement of the Calcutta Bench, a review petition was preferred before the same Bench. The review petition was dismissed on the ground that it is barred by limitation. Then Govt. went before the Supreme Court. The Supreme Court set aside the order on the review petition and remitted the matter to the Calcutta Bench of the Tribunal to hear the case on merits. Accordingly, the Review Petition No. 74/91 arising out of the two transferred applications which was heard by a Division Bench of the Calcutta Bench and it was disposed of by order dated 6.1.1997. The learned counsel for the respondents has placed before us the order of the Tribunal in review application. The Division Bench went into the matter in detail and then gave a decision that the applicants are not entitled to higher scale as has been granted by the earlier order of the Tribunal. Then in the operative portion the Division Bench observed as follows :-

" Under the circumstances and in overall consideration of relevant facts, it appears that there was error apparent in the impugned 1987 judgement which quashed various Govt. orders as and to the extent already explained above. The review petition after considering the relevant facts/issues on merits, therefore, succeeds. The findings in the impugned judgement dt.30.10.87 are hereby recalled. TA.1361 and TA 1248 of 1986 should, therefore, fail and are dismissed. There will be no order as to costs."

Therefore in the review application the Tribunal passed the order allowing the same and set aside the earlier order of the Tribunal dated 30.10.87 and both the transferred applications came to be dismissed.

4. Now, therefore, in view of the subsequent event, the basis for applicants claim in these two cases, namely, the Calcutta Bench judgement dated 30.10.1987 is no longer available. If that judgement is no longer available, then the applicants cannot pray for higher pay scale which is a policy ⁱⁿ ^{the Bench} matter. Further, ⁱⁿ the review application ^{the Bench} has given detailed reasons as to why the prayer in those applications cannot be granted. That decision of the Division Bench is binding on us. Therefore we hold that the present applicants in these two cases are not entitled for any of the prayers.

5. At this stage, the learned counsel for the applicants made a submission that the applicants in those two transferred applications got the benefit in pursuance of the judgement of the earlier Division Bench decision of the Calcutta Bench dated 30.10.87.

He further submits that 11 applicants in those cases and some more applicants in other OAs, filed at Bombay and elsewhere got the benefit of higher pay scale, seniority and subsequent promotion. He, therefore, submits that now in view of the subsequent event which has set aside the earlier judgement dated 30.10.1987, the consequential benefits given to all those applicants must be withdrawn.

The learned counsel for the respondents submitted that the respondents will review all those promotions and seniority question etc. and whatever is permissible will be done taking into consideration that the judgement dated 30.10.1987 is no longer in existence.

We cannot give any direction in the present OAs, since there is no prayer to that effect. Further, the applicants in all those OAs, are not parties in the present OAs. But we are noting the submission of the learned counsel for the applicants and the reply made by the respondents. We also give liberty to the applicants to make a proper representation to the administration bringing to the notice of those facts and it is for the administration to take appropriate decision in view of the subsequent event, namely, the judgement of the Calcutta Bench in the review application dated 6.1.1997. In the circumstances, the said question is left open.

6. In the result, both the OAs, are disposed of in view of the subsequent developments brought to our notice. In the circumstances, no order as to costs.

(D.S. BAWEJA)
MEMBER (A)

(R.G. VAIDYANATHA)
VICE CHAIRMAN