

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 1360 of 1994.

Dated this _____ the 29th day of November, 2000.

B. M. Pande, _____ Applicant.

Shri V. M. Bendre, _____ Advocate for the
applicant.

VERSUS

Union of India & Another, _____ Respondents.

Shri S. S. Karkera, _____ Advocate for
Respondents.

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

Hon'ble Smt. Shanta Shastry, Member (A).

(i) To be referred to the Reporter or not ?
(ii) Whether it needs to be circulated to other Benches of the Tribunal ?
(iii) Library. Yes.

No

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(Smt. SHANTA SHAstry)
MEMBER (A)

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

Hon'ble Smt. Shanta Shastry, Member (A).

Shri B. M. Pande,
Fitter General 'B',
Token No. 5618/MT,
Ordnance Factory,
Ambernath.

Applicant.

(By Advocate Shri V. M. Bendre)

VERSUS

1. Union of India through
The Chairman/Director,
Ordnance Factory Board,
10-A Auckland Road,
Calcutta - 1.

2. General Manager,
Ordnance Factory,
Ambernath.

Respondents.

(By Advocate Shri S. S. Karkera)

O R D E R

PER : Smt. Shanta Shastry, Member (A).

The applicant was working as an Ambulance Driver. He was reverted from the post of Ambulance Driver in the scale of Rs. 360-250 to the post of Fitter (General) 'C' in the scale of 210-290 on 28.12.1983, as he was found to be medically unfit by the Medical Board to continue in the post of Ambulance Driver. Therefore, the applicant was on leave. He was granted leave due and admissible. The applicant voluntarily gave a declaration on 16.12.1983 accepting the lower post. His pay was fixed at Rs. 255/- in the scale of Rs. 210-290, although he had been drawing Rs. 290/- at the time of his reversion. Thereafter, the

applicant was operated for cataract and declared completely fit. He approached the respondents to restore him to the position of Ambulance Driver. However, his request was not considered. Therefore, the applicant filed O.A. No. 311 of 1989 before this Tribunal with the grievance of pay fixation as well as of his reversion. The Tribunal vide order dated 11.10.1991 directed the respondents to consider the representation of the applicant and in case he was found fit and the vacancies were available, they may promote him as Ambulance Driver Grade-II in their department, if there was no other legal hurdle in their way within a period of three months from the date of receipt of the order. Accordingly, the respondents considered the representation of the applicant after seeing him on 21.07.1993 to discuss the case regarding implementation of the judgement of this Tribunal. After due discussions, the respondents issued the impugned letter dated 11.12.1993. It has been stated in this letter that during the discussions the applicant informed the respondents that he was interested in the post of Ambulance Driver Grade-II. He wanted his pay to be protected on his reversion to Fitter (General) 'C' on 28.12.1983. He was therefore asked to submit a separate representation regarding his pay protection. The same was carefully examined and it was found that applicant was given the benefit of the revised pay scale of Rs. 260-400 with effect from 15.10.1984. However, since he was not holding the post of Fitter (General) 'C' as on 15.10.1981, he could not be given the pay scale of Rs. 260-400 from 16.10.1981. The respondents disposed of the case accordingly. Aggrieved by this, the applicant has once again approached this Tribunal. It is the contention of the applicant that when he was reverted from the

post of Ambulance Driver, he was fit for the post of Fork Lift Driver. Though there were vacancies, he was arbitrarily denied the post of Fork Lift Driver under the pretext of continuous medical examination for the period of six months and he was also denied salary and wages. The pay scale of the Ambulance Driver and pay scale of the Lift Fork Driver were more or less on par. Atleast his pay should have been protected by the Respondents. The respondents arbitrarily reverted him and forced him to accept a lower post. The applicant was holding higher post than the semi-skilled post carrying higher pay on 16.10.1981, though he had not been holding the post of Fitter (General) 'C' on that relevant date. On the date of his reversion, as per the revision in the pay scales, there were Fitters drawing two scales in the same cadre. Therefore, as per rules of equity, the applicant cannot be deprived of pay protection.

2. The applicant has relied on the case of S. K. Sood V/s. Union of India & Others [1999 SCC (L&S) 735..para 5] in support.

3. The respondents in their written submissions have stated that they have complied with the directions of the Tribunal dated 11.10.1991 in O.A. No. 311/89 and have passed the impugned orders. The applicant had fully accepted reversion to the post of Fitter (General) 'C' grade. His request for pay protection and revision of the pay scale w.e.f. 15.10.1981 was also examined carefully. However, the same was not agreed to.

4. We have heard the Learned Counsel for the applicant as well as respondents. The applicant's prayer regarding protection of pay and giving him the upgraded scale and refixing his pay

in the upgraded scale from 15.10.1981 had already been considered and they were also the subject matter in the O.A. No. 311/89 filed by the applicant. The applicant had also represented against his reversion. It is seen from the order dated 11.10.1991 of the Tribunal that the Tribunal was aware that the applicant's pay had been fixed properly. The Tribunal limited its directions only to consider the applicant's case for restoring him to the post of Ambulance Driver and the respondents did consider the same by giving the applicant an opportunity of being heard. Since the applicant himself did not want to be given the post of Ambulance Driver Grade-II, nothing survives in this case. The applicant cannot be allowed to re-agitate the issues which were already a subject matter of an earlier O.A. and which had been decided by the Tribunal. In the circumstances, we are unable to grant any relief in this matter.

5. The O.A. is accordingly dismissed. We do not order any cost.

Shanta J
(Smt. SHANTA SHAstry)
MEMBER (A).

S. L. JAIN
(S. L. JAIN)
MEMBER (J)

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