

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: MUMBAI BENCH

MUMBAI

O.M. No. 1265 of 1995.

Date of Decision: 25-9-91.

Between:

1. Bansode, EK	Foreman
2. Awade, SD	Asstt Foreman
3. Dixit, UV	Chargeman Gde-I
4. Jamkhedkar, CR	A/F
5. Kamble, DV	CM-1
6. Lodhi, DK	CM-1
7. Lokhande, MN	A/F
8. Newaskar, SR	CM-1
9. Patel, SND	CM-1
10. Patrik Anthony Marian	F/M
11. Raskar, NR	CM-II
12. Sarode, DS	A/F
13. Sukre, SJ	A/F
14. Gawade, AL	CM-II
15. Haryal, Vijay Kumar	A/F

.....Applicants

(1-13 are at RDE(Engrs), Dighi, Pune,
14,15 are at VRDE, Ahmednagar in DRDO).

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1. Union of India, through Secretary,
Dept of Defence Research & Development
& Scientific Adviser to Defence Minister
& Director General Research & Development,
South Block, DHQ PO, NEW DELHI-110 011.

2. Director, Research & Development Establishment
(Engineers), having his office at Alandi Road,
Dighi, Pune, 411 015.

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3. Pasaricha R.C., working at the office of the Director, Research and Development Establishment (Engineers), Alandi Road, Dighi, Pune, 411 015.
4. Gumal V.R., working at the office of The Director, Research & Development Establishment (Engineers), Alandi Road, Dighi, Pune, 411 015.
5. Bhuvansingh, working at the office of the Director, Research and Development Establishment(Engineers), Alandi Road, Dighi, Pune, 411 015.
6. Sonawane V.R., working at the office of the Director, Research & Development Establishment(Engineers), Alandi Road, Dighi, Pune, 411 015.
7. Jangale R.L.
working at the office of the Director, Research and Development Establishment (Engineers), Alandi Road, Dighi, Pune, 411 015.
8. H.R.Hikare,
working at the office of the Director, V.R.D.E.(VAHANNAGAR), Ahmadnagar-414006
9. V.K.Dhadage,
working at the office of the Director, V.R.D.E.(VAHANNAGAR), Ahmadnagar-414006.
10. S.C.Gorvera,
working at the office of the Director, V.R.D.E.(VAHANNAGAR), AHMADNAGAR-414006
11. V.K.Pardeshi,
working at the office of the Director, V.R.D.E.(VAHANNAGAR), AHMADNAGAR-414006.
12. S.B.Purohit,
working at the office of the Director, V.R.D.E.(VAHANNAGAR), AHMADNAGAR-414006

...Respondents

Counsel for the Applicants :: Mr.I.J.Naik

Counsel for the Respondents :: Mr.R.K.Shetty

Coram:

The Hon'ble Sri Justice V.Rajagopala Reddy, Vice Chairman
The Hon'ble Smt. Shanta Shastry, Member(Admn.)

:ORDER:

(Per Hon'ble Sri Justice V.Rajagopala Reddy, Vice Chairman)

The applicants 1 to 13 are working in Research Development Establishment (Engineers), Pune, whereas the applicants 14 and 15 are working in Vehicles Research Development Establishment, Ahmednagar, which are the subordinate constituents of Defence Research & Development Establishment (Engineers) under the Ministry of Defence, Govt. of India. They were Tradesmen-'A' prior to 1-1-73, the date on which the IIIrd Pay Commission recommendations were implemented. Prior to the said date, the Tradesmen-'A' were promoted as Technical Supervisors Grade-II (for short "Supervisors-II") or Precision Mechanics. Supervisors-II and Precision Mechanics were promoted as Chargeman-II and later on as Chargeman Grade-I. Following the IIIrd Pay Commission recommendations, orders were issued in the year 1979 upgrading all Supervisors-II from the scale of Rs.380-560 to Chargeman-II in the scale of Rs.425-700/- effective from 15-12-79. Thereby they were made eligible to be promoted as Chargeman-I after 3 years of regular service. By order dated 13-4-81, the scales of Precision Mechanics in the Defence Research & Development Organisation, who were

working as on 31-12-1972 and continued to work as Precision Mechanics, were upgraded from the existing scale of Rs.380-560 to Rs.425-700/- as personal/~~them~~ with effect from 1-3-1977. By another order published on 22-8-1981, the Government decided to treat all Precision Mechanics, whose pay was revised and were working on the date viz., 22-8-81 as Tradesmen 'A'. They were also made eligible to be promoted as Chargemen Grade-II, and all such Chargemen Grade-II were made eligible for promotion as Chargemen Grade-I. But this upgradation was not made available to Precision Mechanics ~~be such employees~~, who became Precision Mechanics subsequent to 1-1-1973. Their pay continued to be at Rs.380-560/- and they were not eligible to be promoted to Tradesmen 'A', Chargemen Grade-II and Chargemen Grade-I.

2. Aggrieved by the above order, certain Precision Mechanics, who were working in Defence Research Development Laboratory, Hyderabad, approached the Hon'ble High Court of Andhra Pradesh in W.P.No.10609 of 1984, praying for the same benefit of upgradation to Rs.425-700/- to them also. The said writ petition stood transferred to C.A.T., Hyderabad Bench and registered as TA.No.156/86 and disposed of on 10-11-86.

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The operative portion of the Judgement runs thus:-

"The petitioners and all such Precision Mechanics who have been promoted as such prior to 3-6-1980 shall be entitled to the higher pay scale of Rs.425-700. Pay scale of Precision Mechanics who were appointed prior to 31-12-1972 was revised with effect from 1-3-1977 and communicated in letter No. F.97037/PM/RD-24(Part III)/149/S/D/(R&D), dated 13-4-1981, and the pay of the concerned Precision Mechanics was notionally fixed with effect from 1-3-1977, and arrears were held admissible with effect from 1st December, 1980. The same benefit will accrue to the petitioners herein also. The petitioners shall also be entitled to all consequential benefits as were allowed to Precision Mechanics who were promoted prior to 31-12-1972."

3. Certain Precision Mechanics in Aeronautical Development Establishment, Bangalore (ADE), ^{also} ~~only~~ claimed the same relief granted by the Hyderabad Bench. The Bangalore Bench allowing the OA issued the following directions:-

"(a) Those applicants who became PMs after 31-12-72, would be entitled to pay scale

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of Rs.425-70J like those who became PMs prior to 01.01.73 and were granted that scale vide letter dt 13.04.81.

(b) Those-, who became PMs after 31-12-72, would be eligible to promotion as CM-I for vacancies that arose between 13.04.81 and 17.01.92 (both inclusive) in the grade of CMs-I, and review DPCs would consider their claims accordingly.

(c) For CMs-I vacancies between 13.04.81 - 17.01.92 (both inclusive), there would be no quota from CMs-II and PMs, promotion(s) to CMs-I for that period, would be made on combined seniority of CMs-II and PMs."

4. The respondents in its proceedings dated 11-4-1994 (Annexures-A1 & A2), extended the benefits granted in the above Judgement to all Precision Mechanics in all Establishments. It is stated by the applicants that pursuant to the above proceedings, the Official Respondents issued proceedings dated 23-9-1994 and November, 1994, granting promotions to the private respondents and others. Aggrieved by the above Annexures, the applicants approached this Tribunal in this OA.

5. The learned Counsel submits that their promotions were illegal as the juniors of the applicants stole a march over them. As the applicants had been working prior to 31-12-1972 and the respondents having been promoted subsequent thereto, even if they are allowed the benefits in the above Judgement, they cannot be placed above the applicants in the post of Chargeman Grade-II and Chargeman Grade-I. Hence, the above Annexures are wholly illegal and contrary to the Judgement of the Hyderabad Bench as well as the Bangalore Bench in the above OAs.

6. The learned Counsel for the Applicants submits that the Judgements of the Hyderabad Bench and the Bangalore Bench are not under challenge in this OA. It is stated that the applicants grievance is only in respect to the implementation of the Judgements inasmuch as the applicants who have been prior to 1973 as Tradesmen 'A' have now been shown in the composite seniority list prepared in pursuance of the above Judgements, as juniors to some/ ^{of} those respondents, who were juniors to them prior to 1973. It is argued that as per the Judgements, the Precision Mechanics working even subsequent to 1-1-1973 are also made eligible for upgradation of this scale and for

promotion to the Chargeman Grade-II/Chargeman Grade-I. But the Judgement would not confer any right upon them to supersede their seniors, who have been working much prior to them and that too in higher posts. This argument is based upon the averments made in the amendment to the OA.

7. The official respondents had filed reply to the unamended OA, but no reply has been filed to the amendment, which has been allowed. However, when the matter was taken up for arguments, the Counsel for the Official Respondents sought permission to file the reply. Since the matter has already been taken up for final hearing and the arguments were to be started, we did not permit them to file the reply, in the last minute.

8. In the reply filed by the official respondents, it was stated that the impugned orders in the Annexures are passed strictly in accordance with the Judgements of the Hyderabad Bench and the Bangalore Bench, to confer the benefit, upon all the similarly placed Precision Mechanics of the upgraded scale and the right for promotion to the Grade-I to conform to the principle of equality to all the Precision Mechanics throughout the country.

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9. Having heard the Counsel for the Applicants at length and the Respondents, we find that the applicants have not succeeded in their plea that they were superceded by their juniors in the process of implementation of the Judgements. In the absence of any challenge to the above Judgement and their only claim being as against their supercession in the re-constituted seniority list, the applicants would succeed only if they bring to our notice sufficient material to prove that fact. From a perusal of Annexures-A1 & A2 dated 11-4-1994 or from Para 4.16 of the OA, where it was stated that some promotions were granted, it could not be discernible that the applicants were brought down in their seniority and they were shown as juniors to any of the respondents. The applicants have not filed the re-constituted seniority list. It is also not their case that in pursuance of the impugned orders Annexures A1 & A2, they were reverted or that all the juniors were promoted. No specific grievance is made out before us except the vague assertion that the applicants were shown as juniors to some of the respondents.

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10. The learned Counsel for the Respondents, having taken time to file re-constituted seniority list, had produced the same after the Judgement was reserved. From this seniority list, which is now treated as part of the record, it is evident that it was prepared in accordance with the guidelines issued as contained in Annexures A1 & A2 dated 11-4-1994. In that list the effective date for acquiring eligibility for promotion of Chargemen Grade-II as Chargemen Grade-I was shown against each. Some of the respondents, whose scales was upgraded and were conferred with the status of Chargemen-II and right of promotion as Chargemen Gr.I, was shown above the applicants. But it is pertinent to point out that the effective date of promotion was shown between 1977 to 1981, wherein the applicants were shown to have become eligible for promotion as Chargemen Gr.I from a subsequent date i.e., from 1983 to 1988. Thus it appears that the applicants had qualified to be promoted as Chargemen Gr.I subsequent to some of the respondents/Precision Mechanics, who got the benefit under the Annexures A1 & A2 as per the Judgement of the Bangalore Bench. The contention of the learned Counsel for the Applicants that the applicants became eligible to be promoted as Chargemen Grade-I even prior to 1-4-1997 appears to be wholly incorrect. As stated

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supra, no material is placed before us that in pursuance of the impugned orders, the applicants had suffered any reversion or any loss of seniority.

11. In Mrs. Shoba Vs. Union of India & Others in O.A. No. 765 of 1997 & Batch, the Bombay Bench by a common order dated 28-1-98, having considered the validity of the re-constituted seniority prepared list/ as per the impugned order, upheld the same and declined to interfere with the orders of reversion of the applicants made therein/consequent to such preparation of seniority list, giving the seniority to all the Precision Mechanics in pursuance of the Bangalore Bench Judgement.

12. Thus, the OA is devoid of any merit and it deserves to be dismissed.

13. The OA is accordingly dismissed with costs of Rs.1000/- to be paid to the contesting respondents.

Shanta Shastray
(Smt. Shanta Shastray) (V.Rajagopala Reddy)
Member(A) Vice Chairman

Dated: this the day of September, 2001

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Review Petition No.13/2002
in
Original Application No.1265/95.

Dated this Thursday the 30th Day of May, 2002.

Hon'ble Shri Justice Birendra Dikshit, Vice Chairman
Hon'ble Smt. Shanta Shastray, Member (Administrative).

Shri E.K. Bansode

.. Petitioner

(By Advocate Shri V.M. Bendre).

Vs.

Union of India & Others.

.. Respondents

Order on Review Petition (Oral)
{ Per : Smt. Shanta Shastray, Member (A) }

This Review Petition has been filed by the applicant in O.A.No.1265/1995 which was decided on 25.9.2001. The O.A. was dismissed with cost of Rs.1000/- to be paid to the respondents.

2. The grounds taken for review are that the applicants were represented by Shri V.M. Bendre as their Advocate. Whereas the appearance of Advocate, Shri I.J. Naik has been wrongly recorded. This being an error apparent on the face of the record, needs correction. Secondly, the applicants have submitted that the respondents interpreted the judgments of the Bangalore and Hyderabad Bench wrongly. The respondents produced the false and fabricated seniority list and suppressed the original seniority list. The Tribunal failed to consider the Misc. Application No.756/96, no decision

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was given on it. The applicant has also pointed out that the private respondents were at all times junior to the existing incumbents of Tradesman-A and this aspect has not been considered.

3. We have considered the grounds taken by the review petitioners. So far as recording of the name of Advocate, Shri I.J. Naik instead of Shri V.M. Bendre is concerned, we agree that the same needs to be corrected, as Shri V.M. Bendre had argued the matter and accordingly we are correcting it in the original judgment.

4. So far as other grounds taken are concerned, we find that the the review petitioner is only trying to repeat the arguments that had already been advanced by him during the course of the hearing of the O.A. and these were considered and the matter was decided. Even if an erroneous view was taken by this Tribunal that could not be the ground for review. Therefore, in the absence of any patent error on the face of the record, in our considered view, no review is called for in this matter except for correcting the name of the advocate.

5. This review petition has been filed on 28.1.2002 whereas the decision in O.A. was given on 25.9.2001, the review application has to be filed within 30 days of the

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receipt of copy of the judgment, this has therefore been badly delayed. The review petitioners have submitted in para 13 of their petition that the copy of judgment was posted to Shri I.J. Naik wrongly and Shri I.J. Naik returned the copy to the Tribunal instead of Shri V.M. Bendre, who had argued the same. The respondents on receipt of the copy informed the petitioner that his application has been rejected. Thereafter the petitioner moved the Tribunal to obtain a copy of judgment which he received on 16.1.2002 and therefore, according to the petitioner, the review is within the stipulated time. Considering the confusion in recording the presence of the Advocates, the delay is condoned. However as already pointed out, on merits, the review petition being devoid of merit is rejected except for the correction in regard to the name of the Advocates.

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(Smt. Shanta Shastry)
Member (A)

B. Dikshit

(Birendra Dikshit)
Vice Chairman.

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dt: 30.5.2002.
order/Judgement despatched
to Applicant/Respondent(s)
on 2.7.2002

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