

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

REVIEW PETITION NO. 45/2000 IN O.A.NO.182 OF 1995

Shri G.P. Naik Applicant

V/S

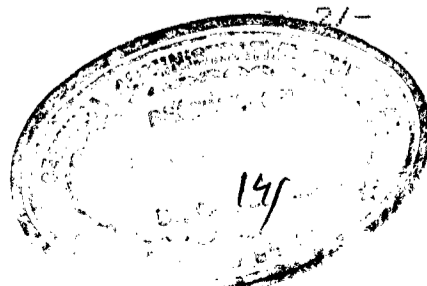
Union of India Respondent
and others

WRITTEN STATEMENT OF THE RESPONDENTS TO THE
REVIEW PETITION FILED BY APPLICANT.

MAY IT PLEASE THIS HON'BLE TRIBUNAL :

1. Without prejudice to the parawise reply
furnished below, the respondents furnish as under;

Respondent most respectfully submit that
Hon'ble CAT Mumbai had delivered their Judgement
in O.A.No.182/95 filed by Shri G.P. Naik & Others
V/S. Union of India & Others on 2-6-2000, after
examining the merits of the case and detailed
perusal of the oral and documentary evidence
produced before the Hon'ble CAT Mumbai. In terms
of the provisions relating to filing of Review
Petition, the respondents submit that 30 days time
is allowed for filing Review Petition if any.
Present Review Petition No. 45/2000 was filed on
24-8-2000 before the Hon'ble CAT Mumbai. In view
of this the Review Petition No.45/2000 dtd.24-8-
2000 in O.A. 1822/95 is barred by limitation and
deserve to be dismissed on this ground alone.



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Respondents further submit that, it has been made very clear through various Judicial pronouncements that the scope of Review Petition is very limited and the Courts/Tribunal can entertain Review Petitions only if there is a error apparent on the fact of record of the Judgement. In the instant case Hon'ble CAT Mumbai while delivering the Judgement in O.A.No.182/95 has examined and deliberated all the evidences on its merits and delivered this Judgement. There is no error in the Judgement dtd. 2-6-2000 and the same should be Honourably accepted by the petitioners of O.A. 182/95.

In view of the above, the Review Petition No. 45/2000 in O.A. No. 182/95 cannot be entertained by Hon'ble CAT Mumbai and Respondents submit that the same may be dismissed at the admission stage itself.

02. With reference to Para 1 of the review petition Respondents most respectfully submit that original application No.182 of 1995 filed by the applicant was discussed in length in the Hon'ble Tribunal and O.A. was dismissed. Therefore there is no merit in review petition and is not tenable and liable to be dismissed.

03. With reference to para 2 (A) of the review petition Respondents submit that though the Hon'ble Tribunal stated the case of Applicants

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apparently stands covered as per the case of G. Narayana and Others. V/S Union of India, the O.A. No.182 of 1995 was dismissed by the Hon'ble Tribunal for want of vacancies. Respondents further submit that completion of 2 years of the service in Semi Skilled Grade is the eligibility for promotion and one of the criteria. Promotion of S/S Grade employees is considered after passing the requisite prescribed Trade test and also depending upon the workload and budgetary provision of the factory. Respondents submit that it is for the Respondents to decide when vacancies are to be filled. The applicants have no vested right to claim promotion from a specific/particular date.

04. With reference to para 'B' of the Review Petition, Respondents submit that Judgement of Samsuddin & Others V/S. Union of India cited by the applicants have no bearing in the instant case. In terms of the Govt. Orders the Semi Skilled Employees are considered for promotion to the Skilled grade after they have completed minimum 2 years of service and have to pass the requisite trade test. The contention of the petitioners that upgradation means to acquire higher status while remaining in the same pedestral is denied as wrong perception. In Ordnance Factories Organisation, in addition to the

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designation of the employees changing from Semi Skilled to Skilled grade (thereby indicating higher level of Skill), employees are also granted financial benefits in the pay fixation as per the relevant statutory rule after assumption of higher responsibility.

4.1 With reference to para 'B' of the Review Petition respondents submit that OFB/DGOF letter No. 800/A/I/Genl dtd. 30-6-87 cited by the applicant is not addressed to GM/O.F. Varangaon and also has no bearing with the applicant case. In OFV the circumstances prevailing were not the same as in other Ordnance Factories cited in OFB/DGOF letter No. 800/A/I/Genl dtd. 30-6-87. Principally no employee can claim his promotion from specific/ particular date but can only be considered for promotion subject to availability of post and his fitness to the post.

05. With reference to para 'C' of the Review Petition, respondents submit that the Judgement of O.A.No. 166 of 1991 does not pertain to Ordnance Factory Organisation. Further the ratio of the Judgement is not applicable to the present case as petitioners in that case were directly recruited in the Skilled grade and were agitating against the reversion/down gradation.

06. With reference to para 'D' of the Review Petition, respondents Submit that Ministry of

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Defence Letter No. 90237/4960/EIC(Legal-I)4)C/D(CIV-I) dtd. 2-2-2000 has no implication to the present Petitioners as subject letters talk about granting of pay scale of Skilled grade from the date of joining of Petitioners.

07. With reference to the para E Respondents submits that the case of the applicants is in no way connected to the Judgement cited by the Petitioners.

08. With reference to the para 3 of the review petition Respondents submit that since the O.A.182 OF 1995 filed by the applicant is dismissed by the Hon'ble Tribunal and there is no merit in the review petition, the review petition deserve to be dismissed. Respondents reiterate that completion of 2 years in the Semi Skilled Grade is one of the criteria for promotion to Skilled grade.

09. With reference to the para 4 of the review petition Respondents submit that :

- (A) Review petition may not be allowed.
- (B) Since O.A. No. 182 of 1995 has already been dismissed by Hon'ble Tribunal, review petition may also be dismissed.
- (C) Plea of the applicant may be rejected.
- (D) Review petition may be dismissed in view of the foregoing facts.


R. K. SHETTY, ASST. WORKS MANAGER/ADMIN
Sr. CGSC FOR GENERAL MANAGER


(S.K. SINGH)