

(67)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.491/91

date of decision : 2-7-1993

Between

Smt. A. Chacko
Sri K. Lingaiah &
Smt. Sharada Raman

: Applicants

and

1. Union of India, rep. by
The Secretary (DP)
Min. of Defence
New Delhi

2. The Secretary
Ordnance Factory Board
10/A, Auckland Road
Calcutta 700001

3. The General Manager
Ordnance Factory Project
Yeddumailaram
Medak District 502205

4. Shri V.S.Sharma
Chargeman Gr.I(NT)
Ordnance Factory Project
Yeddumailaram
Medak District

5. Shri A. Rajeswar Raju
Chargeman Gr.I(NT)
Ordnance Factory Project
Yeddumailaram, Medak Dt.

6. Shri Parashuram Rai
Chargeman Gr.I(NT)
Ordnance Factory Project
Yeddumailaram
Medak Dist.

7. Shri B.L. Sree Rama Rao
Chargeman Gr.I (NT)
Ordnance Factory Project
Yeddumailaram
Medak Dist.

Respondents 4 to 7 implemented as per
court orders of 2-7-93.

: Respondents

Counsel for the applicants : Y. Suryanarayana, Advocate

Counsel for R-1 to 3 : N.V. Ramana, Addl. SC for Central
Government

Counsel for R-4 to 7 : P. Venkateshwarlu, Advocate

8/10/93

CORAM

THE HON'BLE MR.JUSTICE V.NEELADRI RAO : VICE-CHAIRMAN

THE HON'BLE MR.A.B.GORTHY : MEMBER (A)

Judgement

(As per Hon'ble Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri Naveen Rao for Sri Y. Suryanarayana, learned counsel for the applicants and Sri v. Rajeswara Rao, for Sri N.V. Ramana, learned counsel for Respondents 1-3 and Sri P. Venkateshwarlu for Respondents 4-7.

2. All the three applicants joined service in Ordnance Factory, as Supervisor Grade A (Non-Technical), till the proceedings were issued on 19-7-1990 by redesignating the post of Supervisor Grade A (Non-Tech) to that of Chargeman Grade II (NT). The latter post was a promotional post for the former. As per the proceedings dated 19-7-1990, the redesignation was given effect from 1-1-1986 and they were placed enbloc as juniors to the juniormost in Chargeman Grade II as on 31-12-1985.
3. The applicants made a representation that for the purpose of fixing seniority in Chargeman Grade II, their dates of joining in the posts of Supervisor Grade A have to be taken into consideration when their request for the same was negatived, this OA was filed praying for a direction to R-2 to fix their seniority in the grade of Chargeman Grade II (NT) taking into consideration the total service rendered in Supervisor A (NT) i.e. continuous officiation in the Grade with all consequential benefits.
4. The contentions for the applicants are three fold:
 - i) When earlier, the posts of Supervisor Grade A (Tech) in this factory were merged with Chargeman Grade II (Tech.),

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^{the} The total service of the former in the Grade of Supervisor Grade A (Tech) was taken into consideration for fixing the seniority.

ii) A ban was imposed on 29-11-1983 for promoting Supervisor Grade A (NT) to the post of Chargeman Grade A (NT), as question of redesignation of former was under consideration. If there was no such ban, they would have been promoted and then they would have been seniors to such of those ^{who} were recruited as Chargeman Grade II (NT) subsequent to the date of ban; and

iii) There was no justification for giving the designation of Chargeman Grade II (NT) to the Russian Translators when the employees holding such posts in other factories were designated as Chargeman Grade II (Tech.) If they were designated as Chargeman (Tech) , the applicants will be higher up in the seniority list.

4. It is well established that if any benefit had to be given effect to from retrospective date, it should not affect the vested right of others. Thus, whenever a benefit is given from retrospective date the same will be considered subject to the vested right if any of others.

5. Admittedly, the Chargemen in Grade II (NT) were in a post higher to those who were working in the category of Supervisor Grade II (NT), by 31-12-81. Even if it is a case of promotion of Supervisors Grade A (NT) subsequent to 31-12-1985, they would be juniors to those who are in the category of Chargeman Grade II by 31-12-1985. In such a case they cannot claim any higher benefits than the benefit which they would have got by way of promotion. Hence the concerned authority were justified in counting service of the applicants from 1-1-1986 only for the purpose of

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fixing seniority of Supervisor Grade A, on their redesignation as Chargeman Grade II (NT). In such a case they will be naturally placed below the juniormost in Chargeman Grade II (NT) as on 31-12-1984.

6. While it is a case of redesignation in the case of Supervisor Grade A(NT) into that of Chargeman Grade II (NT) , it was a case of merger of Supervisor Grade A(T) with that of Chargeman Grade II (T). Besides that difference, the applicants had not produced any material to show that on such merger, the service of those in the category of Supervisor Grade A (Tech) from the dates of their appointment was taken into consideration for fixing their seniority vis-a-vis those in the category of Chargeman Grade II (T). Even if it is so done as urged by the applicants, the same cannot be relied upon as precedence merely on the ground that it was not challenged by those who were in the category of Chargeman Grade II (T). In any case it has to be stated that if it is going to be done in the case of redesignation, the same will be contrary to the well established principle that a benefit given with retrospective effect should not affect vested right of others. Hence, this plea for the applicants is negatived.

7. The ban was there in regard to the promotion from the category of Supervisor Grade A (NT) ~~to that~~ of Chargeman Grade II (NT), as on review it was felt that there should be a reduction in the existing vacancies of the post of Chargeman Grade II. But it is also stated therein that in case of functional requirement, clearance had to be obtained from higher authorities. Thus it is not a case of imposing ban with any

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Copy to:-

1. The Secretary (DP), Ministry of Defence, Union of India, New Delhi.
2. The Secretary, Ordnance Factory Board, 10/A, Auckland road, Calcutta-001.
3. The General Manager, Ordnance Factory Project, Yeddumailaram, Medak District-05.
4. One copy to Sri. Y. Suryanarayana, advocate, CAT, Hyd.
5. One copy to Sri. N.V. Ramana, Addl. CGSC, C&A, Hyd.
6. One copy to Sri. P. Venkateswarlu, advocate, CAT, Hyd.
7. One spare copy.

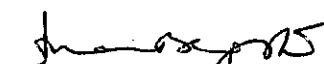
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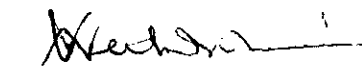
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ulterior motive. As such, the applicants cannot claim that they should be given seniority over those employees in the category of Chargeman Grade II (NT) that were recruited subsequent to 29-11-1983. Thus, this contention is also not tenable.

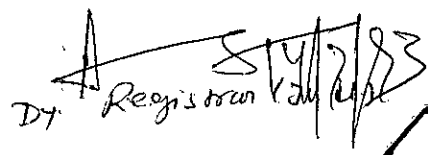
8. In the counter filed for the impleaded respondents, it was stated that the persons having technical qualifications on being appointed as Russian Translators were designated as Chargeman Grade II (Tech.) while those without such technical qualifications were designated as Chargeman Grade II (NT). The method adopted cannot be held to be unjust or unreasonable. On promotion from the post of Russian Translators, employees having technical qualifications can be used for Technical purpose while those without technical qualifications can be used on non-technical side. Further, it is stated that the pay scale for Chargeman Grade II (Tech) is higher than the pay scale of Chargeman Grade II (NT). We do not find any reason to hold that the action of the authorities in giving designation of Chargeman Grade II (NT) to the Russian Translators without technical qualifications is unjust or unreasonable while the Russian Translators with technical qualifications are being designated as Chargeman Grade II (T). Thus, there is no force in this contention also.

9. In the result, this DA does not merit consideration and accordingly it is dismissed. No costs.


(A.B. Gorthi)
Member (Admn.)


(V. Neeladri Rao)
Vice-Chairman

Dated : July 2, 1993
Dictated in the Open Court


By Registrar

sk/chvmr

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