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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

O.A.NO.1110/95

Between:

Dt. of Order: 28.9.95.

1. K.Appa Rao
2. N.Srinivasa Rao
3. K.Srinivas
4. Ashok
5. Md.Yasan Md. Yaseem
6. H.Sangaiah N. Sangaiah
7. Md.Ismail.

Applicants not own
per Cont. order dated 26.10.95 under
no. 923/95

...Applicants.

And

1. The Government of India,
rep.by the Secretary to Government,
Ministry of Defence, Central Secretariat,
New Delhi.
2. The Ordinance Factory Board,
Ministry of Defence, Govt. of India,
rep. by its Secretary,
10 Auckland Road, Calcutta - 700 001.
3. The Ordinance Factory Project,
Ministry of Defence, Govt. of India,
rep. by the General Manager,
Yeddumailaram Village, Medak District.(A.P).

...Respondents.

Counsel for the Applicants : Mr.P.Naveen Rao

Counsel for the Respondents : Mr.N.R.Devraj, Sr.CGSC.

CORAM:

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

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

contd...

J U D G M E N T

Heard Sri P.Naveen Rao, learned counsel for the applicants and Sri N.R.Devaraj, learned Standing Counsel for the respondents.

2. The applicants in this O.A. numbering 8 are working as Examiners (Skilled) in the Ordnance Factory Project, Yeddumailaram, Medak District. Initially they were appointed as Semi-skilled in the pay scale of Rs.800-1150. At the time of their induction into service as Semi Skilled they are possessing ITI certificates. It is stated for the applicants that they have successfully completed their period of probation.

3. Examiner is one of the 23 common trades identified as common grade skilled jobs as per Lr.No.3808/OS90&M) Civ.I/84 dated 15.10.1984 addressed to the Director General, Ordnance Factories, Calcutta. As per para-1(1) of the above letter all the existing employees working as on 15.10.1984 in the semi-skilled are upgraded to the skilled grade. As per second para of para-1(1) of the above said letter two channels were provided for induction to the skilled grade. The first channel is that a person who has rendered atleast three years of service in the semi-skilled feeder category and who has passed the prescribed trade test is entitled for upgradation to skilled category, and the second channel is that a direct recruit with ITI certificate/Ex-trade Apprentices/NCTVT etc. inducted in the semi-skilled grade and has put in two

years of service in the grade will be promoted to the skilled grade as soon as he completes two years of service i.e. soon after his probation is declared. The above policy of the Govt. of India contained in the letter dt. 15.10.1984, recruitment rules were framed in 1989 and was issued as SRO 18-E, dt. 6.7.1989 (Annex. 'A').

4. There are 36 trades in Annexure-A while there are 125 trades in Annexure 'B' to SRO 18-E dt. 6.7.1989. It is not disputed that the trade examiner is one of the common categories (Skilled) as per letter dt. 15.10.84. But the same was included in Annexure 'B' of SRO dt. 6.7.89. On completion of two years of service the direct recruits of Annexure 'A' categories were promoted to skilled category, whereas direct recruits in regard to trades in Annexure 'B' are given promotion on completion of three years service and on passing the trade test prescribed. As the Examiners were included in Group 'B' category as per SRO 18-E dt. 6.7.1989 and as per that grouping they will be promoted only after three years of service and on passing the trade test prescribed and as they were shown in common categories (Skilled) in the earlier letter dt. 15.10.1984, the applicants herein represented for giving them promotion after completion of two years of service and without subjecting them to trade test. But, ^{on} their representation in this regard both individual as well as submitted by All India Defence Employees Federation, no proper response was received. It is the contention of the applicants that inclusion of that trade viz. Examiner in Group 'B' as per SRO 18-E is a mistake and they should have been included in Annexure-A in SRO 18-E. The seniors

to the applicants herein approached this Tribunal by filing OA 668/91 for a declaration that inclusion of Examiners trade in Annexure 'B' to SRO 18-E dt. 6.7.1989 at Sl.No.59 is highly arbitrary and discriminatory and unconstitutional and sought for a consequential direction to the respondents to include the Examiners trade in Annexure 'A' and for consequential upgradation of the applicant to the Skilled grade with effect from prospective ~~xxx~~ dates of completion of two years of service in semi-skilled grade. During the pendency of the above OA in Nov., 1994 amendment was carried out in SRO 18-E bringing Examiners trade to Annexure-'A', but that amendment was given prospective effect only.

5. OA 668/91 was disposed of by Judgment dt. 30.1.1995 (Annexure 'E'). It was held in that OA as follows:-

"So, we fully agree with the contention for the applicants that it is discriminatory if the trade examiner is not included in Annexure A' and it is arbitrary when the amendment made in November, 1994 is directed to be prospective instead of making it retrospective ~~xxxxxx~~ from 6.7.1989 the date on which the SRO 18-E was issued."

A direction was given to effect promotion to the applicants to the post of skilled category/^{the day} on which they completed two years of service in the category of semi skilled and other consequential benefits.

6. Immediately after the judgment in OA 668/91 the applicants herein had submitted a representation seeking extension of same benefits as is being given to the applicants in OA 668/91 (Annexure-F). But no reply is received

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in this connection. It is alleged that the respondents have stated orally that the applicants herein are not covered by the judgment and hence the same benefit cannot be given to them.


7 Hence, this OA is filed praying for a declaration that the decision of the respondents ~~xxx~~ to give prospective effect to the amended SRO with effect from 12.11.1984 ~~add~~ contained in FAX Message No.212513 is arbitrary, discriminator, unconstitutional and for a further declaration that the trade of Examiner is deemed to have been included in Annexure-A of SRO 18-E dt. 6.7.1989 from the date of publication of the SRO by applying the principles laid down in the judgment of this Tribunal dt. 30.1.1995 in OA668/91 and for a further consequential direction to the respondents to advance the dates of their promotion to the post of ~~semi~~-skilled ^{respective} category from the/dates on which they had completed two years of service in the category of semi-skilled and to pay the difference in pay and other emoluments and grant them consequential seniority on the basis of advancement of dates of promotion.

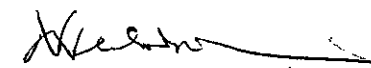
8. There is no doubt that this OA is fully covered by the facts in OA 668/91 where both of us were parties to that judgment. As this OA is covered by the judgment in OA 668/91 we see no reason to differ from the judgment in OA 668/91 and give the following direction:-

The respondents are directed to advance the dates of promotion of the applicants to the post of Skilled category from the respective dates on which they completed

two years of service in the category of semi-skilled and to pay the difference in pay and other emoluments. They are also entitled to get the seniority on the basis of advancement of dates of promotion if the question of seniority also arises.

accordingly at the admission stage itself. No costs.


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice-Chairman

Dated Sep., 1995.

Grh.


DEPUTY REGISTRAR(J)

TO

1. The Secretary to Government,
Ministry of Defence, Central Secretariat,
Govt. of India, New Delhi.
2. The Secretary, Ordinance Factory Board,
Ministry of Defence, 10 Auckland Road,
Calcutta-700 001.
3. The General Manager, Ordinance Factory Project,
Min. of Defence, Govt. of India,
Yeddumailaram Village, Medak District.
4. One copy to Mr. P. Naveen Rao, Advocate, CAT, Hyderabad.
5. One copy to Mr. N. R. Devraj, Sr. CGSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One spare copy.

YLKR

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHANCELLOR
and

THE HON'BLE MR. R. RANGARAJAN : M (ADMN)

DATED:- 28 - 9 - 1995.

ORDER/JUDGMENT.

M.A./R.A/C.A.No.

in

O.A.No. 1110/95

T.A.No.

(W.P.)

Admitted and Interim Directions
Issued.

Allowed

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

pvm.

No Spare Copy

