CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI-5.

O.A. NO. 70/97
T.A. NO.

DATE OF DECISION 7.4.1997
(AT ADMISSION STAGE)

Shri P.K. Dey and others (PETITIONER(S)

Shri J.L. Sarkar and Shri M. Chanda ADVOCATE FOR THE PETITIONER (S)

VERSUS

Union of India and others RESPONDENT (S)

Shri G. Sarma, Addl. C.G.S.C. ADVOCATE FOR THE RESPONDENT (S)

THE HON'BLE JUSTICE SHRI D.N. BARUAH, VICE-CHAIRMAN
THE HON'BLE SHRI G.L. SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.70 of 1997

Date of decision: This the 7th day of April 1997
(AT ADMISSION STAGE)

The Hon'ble Justice Shri D.N. Baruah, Vice-Chairman

The Hon'ble Shri G.L. Sanglyine, Administrative Member

1. Shri Pradip Kumar Dey
2. Shri Hemlal Joshi
3. Shri Nanda Kishore Ram
4. Shri Dhan Bahadur Lama
5. Md Islam Mian
6. Shri Ram Bahadur Thapa
7. Md Yasin
8. Shri Padam Bahadur Limbu .....Applicants

Applicant No.1 is working as Electrician, and applicant Nos.2 to 8 are working as Fitter General Mechanic in the office of the Garrison Engineer, Airforce, Shillong, under the control of Commandar Works Engineer, Shillong.

By Advocate Shri J.L. Sarkar and Shri M. Chanda.

- versus -

1. Union of India
Through the Secretary, Government of India,
Ministry of Defence,
New Delhi.
2. Commandar Works Engineer,
Military Engineering Service,
Shillong.
3. Chief Engineer, Shillong Zone,
Military Engineering Service,
Shillong.
4. Headquarter Chief Engineer,
Eastern Command,
Fort William, Calcutta.
5. Army Headquarters Engineer,
In Chief's Branch, Kashmir House,
DHQ, New Delhi.
6. Garrison Engineer, Air Force,
Military Engineering Service,
Shillong. .....Respondents

By Advocate Shri G. Sarma, Addl. C.G.S.C.

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ORDER

BARUAH.J. (V.C.)

In this application the applicants have prayed for a direction to the respondents to treat the promotion of the applicants as regular promotion without taking into consideration Annexure-7 letter dated 10.11.1986 issued by the Chief Engineer, Headquarters Eastern Command, Calcutta, to the Chief Engineer, Shillong and other zones.

2. The facts, as narrated by the applicants, are:

All the applicants had been appointed Chowkidar/Mazdoor/ Safaiwala on various dates from 1968 to 1973. They were also promoted to the post of Motor Pump Attendant (MPA for short) during the period from 1982 lto 1983 on regular basis in the pay scale of Rs.210-290, and all the applicants had been placed on two years probation. Accordingly all the applicants, thereafter, completed their probation period successfully. Based on the recommendation of the Expert Classification Committee Report, Government of India, Ministry of Defence, the respondents gave the applicants higher revised pay scale of Rs.260-400 instead of Rs.210-290 by order dated 11.5.1983. Thereafter all the applicants were placed in the scale of pay of Rs.260-400 by the Garrison Engineer, However, by Annexure-7 letter dated 10.11.1986 it was ordered that the fitment placing of the applicants in the pay scale of Rs.260-400 was irregular. Therefore, they were sought to be reverted to the post of Mate MPA in the pay scale of Rs.210-290. It was further directed that they could be considered for promotion only after completion of three years of service in the grade of Mate MPA. Accordingly, the applicants were reverted to the post of Mate MPA. This was done, without giving

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any opportunity of hearing. After reversion, the authorities also gave direction for recovery of the excess amount thus paid in pursuance of the letter dated 10.11.1986. The applicants, however, state that notwithstanding the directions given by letter dated 10.11.1986, no recovery had been made till the date of filing of the application from applicant Nos.1, 4, 6 and 7 and the recovery was made from the other applicants, namely, applicant Nos.2, 3, 5 and 8. Hence the present application.

3. Heard Mr J.L. Sarkar, learned counsel for the applicants, and Mr G. Sarma, learned Addl. C.G.S.C. Mr Sarkar has informed this Tribunal that the point of controversy is squarely covered by a decision of this Tribunal in O.A.No.144(G) of 1989, disposed of on 29.6.1990. The order has been annexed to the application as Annexure-17. We have perused the order. In the said order this Tribunal held that the clarification or direction given by the Headquarter, Eastern Command in its letter dated 10.11.1986 can not be sustained. We quote the relevant portion of the order.

> ".....The clarification or direction given by the Headquarter, Eastern Command in its letter dated 10.11.1986 can not be sustained. Even if there were compelling circumstances why the order should have retrospective effect, the affected person should at least have been given an opportunity of explaining his case. Since this opportunity was not given the applicants were denied natural justice."

In the present case also no opportunity was given. In our opinion the said order squarely covers the controversy of the present case. It may be mentioned here that the finding of the Tribunal in the aforesaid judgment was sought to be reviewed in R.A.No.12 of 1990. The review application was rejected, confirming the earlier decision. We, therefore, following the said decision, direct the respondents to give all the benefits to the applicants of the

scale.....

scale of pay of Motor Pump Attendants of Rs.260-400 (now revised to Rs.950-1500). The money recovered from some of the applicants shall be refunded to those applicants as early as possible, at any rate within a period of three months from the date of receipt of this order.

4. The application is accordingly disposed of. However, in the facts and circumstances of the case we make no order as to costs.

(G. L. SANGLYINE)
MEMBER (A)

(D. N. BARUAH)
VICE-CHAIRMAN

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