

(J)

CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH,
JABALPUR

Original Application No. 74 of 2005

Jabalpur, this the 30th day of August, 2006

Hon'ble Dr. G.C. Srivastava, Vice Chairman
Hon'ble Mr. A.K. Gaur, Judicial Member

Prem Chand Gupta, Aged about 42 yeas, S/o. Shri Ramdhar Gupta, Resident of 29-B, Ram Nagar, Near Sanjeevan Hospital, Adhartal, Jabalpur, M.P.

-Applicant

(Applicant in person)

1. Union of India, through the Secretary, Ministry of Defence, Ordnance Factory Board, 10-A, S.K. Bose Road, Kolkata-700001.

2. General Manager, Grey Iron Foundry, Jabalpur, M.P.

-Respondents

(By Advocate – Shri P. Shankaran)

ORDER

By A.K. Gaur, Judicial Member –

By filing this Original Application the applicant has claimed the following main relief:

“8.1 .. to direct the respondent for transferring the one post of NT/OTS side instead of the reduction of the one post from Store Side;

8.2 ..to direct the respondents to promote the applicant from 10.02.2003 and then prepare seniority list so that applicant benefited to further promotion as per seniority”

2. The brief facts of the case are that the applicant while working as Chargeman Grade-II [NT/Other than stores (for short 'OTS')] in Grey Iron Foundry (for short 'GIF'), Jabalpur was promoted to the post of Chargeman Grade-I (NT/OTS) on 31.5.2004. On the recommendations of 5th Central Pay Commission, restructuring in the Non-Technical Supervisory staff in the Ordnance & Ordnance Equipment Factories has been

(2)

sanctioned w.e.f. 26.12.2001 vide Ministry of Defence letter No.44(1)/2002/III/D (Fy-II) dated 1.10.2002, as under:

OLD	NEW
Posts	Posts
NIL	Jr. Works Manager(OTS)/ 5% Jr. Works Manager(Stores)
Foreman/Store Holder 20%	Foreman/Store Holder 25%
Chargeman Gr. I (OTS/STORES) 30%	Chargeman Gr. I (OTS/STORES) 25%
Chargeman Gr. II (OTS/STORES) 50%	Chargeman Gr. II (OTS/STORES) 45%

In Ordnance and Ordnance Equipment Factories, the NT Supervisory staff has been bifurcated into OTS stream and Stores (NT/S) stream in order to meet the functional requirements. Total NT supervisory staff at different grades starting from CM-II upwards is distributed accordingly. In the restructuring a new post of Junior Works Manager has been created with 5% quota. Similarly, the level of CM-II erstwhile 50% quota has come down to 45% and the level of CM-I erstwhile 30% quota has come down to 25%. This reduction of posts at the level of CM-II & CM-I was done in almost all the factories.

3. The applicant has stated that in the GIF, as per Zero Budget Base (for short 'ZBB'), prior to restructuring, the sanctioned strength of NG (NT/OS) and Stores staff was as under:

1. Foreman (NT) - 05 Store Holder - 03
2. Chargeman Grade-I - 06 Chargeman Grade-I - 06
3. Chargeman Grade-II - 10 Chargeman Grade-II - 11

While applying the new ratio, the position of Chargeman Grade-I (NT/OTS) and Chargeman Grade-I NT Store will be as under:

$$25\% \frac{25 \times 21}{100} = 5.25 \quad 25\% \frac{25 \times 20}{100} = 5$$

However, on 10.2.2003, after the restructuring, the position of Chargeman Grade-I in the GIF was as under:

✓

(3)

1. Other than store side - Chargeman Grade-I - 05 posts
2. Store Side - Chargeman Grade-I - 06 posts

which was not justified as per the distribution. However, the said mistake was rectified by the OFB later on, by reducing the one post of Chargeman Grade-I in Store side. The applicant has contended that in fact 11 posts have been allotted for Chargeman Grade-I for distribution of posts between OTS and Stores. Instead of transferring the one post of Chargeman Grade-I to NT/OTS side, the OFB has reduced the one post, which is against the basic structuring of the GIF. The applicant has contended that if one post of Chargeman Grade-I would have been transferred to the NT/OTS side, he would have been promoted along with other staff who were promoted as per allotment on 10.2.2003. The applicant has, therefore, prayed to direct the respondents for transferring the one post of Chargeman Gr.I in NT/OTS side instead of reduction of one post from Store Side; to promote him from 10.02.2003; and then prepare seniority list so that he is benefited for further promotion as per seniority.

4. The respondents, in their detailed reply, have stated that the applicant was promoted to the post of Chargeman Grade-I (NT/OTS) on 31.5.2004 against a clear cut vacancy meant for general category. The promotions effected on 10.2.2003 were based on the inter grade ratio agreed to by the Ministry of Defence vide order dated 1.10.2002 (annexure A/1) and in conjunction with OFB, Kolkata letter dated 29.1.2003 (annexure R/1) on revised operating strength of all the factories in the categories of Chargeman Grade-I/NT(OTS) and NT/Stores. The applicant could not have been promoted earlier than 31.5.2004 as there was no vacancy in the post of Chargeman Grade-I (NT/OTS) in the GIF, Jabalpur till that date. The respondents have also stated that because of deficient in the work load and on the functional requirement in the GIF, Jabalpur an effort was made to re-deploy the manpower at all levels and several senior staff has been

transferred to sister factories along with their posts. Even in the grade of Chargeman Gr.I (NT/OTS), one post was transferred to Ordnance Factory, Khamaria.

5. Having heard the learned counsel of parties, we have come to the conclusion that the applicant has no right to assail the executive function of the respondents. The allocation of posts/ requirement of staff in various categories is well within the purview of the executive and subject to various factors such as work load of each factory at a particular point of time, functional requirement, budgetary support etc. The Ordnance Factory Board after taking into consideration the functional requirement of man power has distributed posts in all the factories (including GIF, Jabalpur where the applicant is working) on all India basis, vide letter dated 29.1.2003 (annexure R/1) as an interim measure. Thereafter, the OFB vide letter dated 18.3.2004 (annexure R/2) had accorded the revised operating strength by including all the posts namely, JWM, Foreman, Store Holders, Chargeman Gr.I & Gr.II (NT). As per the revised operating strength, in the non-technical cadre, there are only 5 posts each of Chargeman Gr.I (NT/OTS) and Chargeman Gr.I (NT/Stores). The applicant was promoted to the post of Chargeman Grade-I (NT/OTS) on 31.5.2004 when there was a clear cut vacancy meant for general category. Even if it is assumed that one post of Chargeman Gr. I (NT/OTS) had been increased on 10.2.2003, the roster point being meant for ST category, the applicant would not have been promoted from 10.2.2003. Principle of natural justice and fair play has ~~also~~ not at all been violated, in as much as the applicant is a member of the recognized association with whom consultation has been done at every stage by the respondent no.1 while carrying out the cadre review and distribution of manpower. We also find that because of ~~reduction in~~ ^{reduction in} ~~deficiency in~~ the work load and on the functional requirement in GIF, Jabalpur, several senior staff has been transferred to sister

5

factories along with their posts. Even in the grade of Chargeman Gr. I (NT/OTS), one post was transferred to Ordnance Factory Khamaria. The entire staffing pattern is an executive exercise which is based on functional requirement at a particular point of time and in public interest. In our considered view there is no infirmity or mistake as alleged by the applicant in allotment/distribution of the post and no illegality has been committed by the respondents in the entire process. In this view of the matter, we do not find any merit in this Original Application.

6. In the result, the Original Application is dismissed, however, without any order as to costs.

A.K. Gaur
(A.K. Gaur)
Judicial Member

Gaurak
(Dr. G.C. Srivastava)
Vice Chairman

rkv

पृष्ठांकम् जौ/व्या..... जबलपुर, दि.....

उल्लिखित अवैधिकता:-

- (1) सदिक, उच्च न्यायालय कार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु..... के काउंसल
- (3) प्रत्यार्थी श्री/श्रीमती/कु..... के काउंसल
- (4) न्यायालय, कोपाल, जबलपुर न्यायालयीठ

राचना एवं आवश्यक कार्यवाही हेतु

Shri prem chand Gupta
Applicant
Shri P. shem Karan Adl.
JBP.

Shri Prem Chand Gupta
उप अधिकारी 1.9.06.

I Blded
on 1/9/06