

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.978/04

Bilaspur this the 16th day of March, 2005

CORAM

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.Madan Mohan, Judicial Member

Subodh Kumar Karmakar
S/o Late Surya Kumar Karmakar
C.T.R/97/60750/O.F.Khamaria
R/o 152, Near Our Ladies Church
Village Ghana, P.O.Khamaria
Jabalpur(M.P.)

Applicant.

(By advocate Shri Sudarshan Chakrawarti)

Versus

1. Union of India through
• The Secretary
Ministry of Defence
New Delhi.
2. Chairman/D.G.O.F
O.F.Board
Shaheed Khudiram Bose Road
Kolkata.
3. General Manager
Ordnance Factory, Khamaria
Jabalpur.
4. Ashok Kumar
C.T.R./17/60761
Ordnance Factory Khamaria
Jabalpur.

Respondents.

(By advocate Shri Akhil Prakash Khare)

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ORDER


By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following relief:

Direct the respondents to adopt the same treatment with the applicant as of respondent No.4 and award him the scale of pay Rs.5000-8000 on the date of completion of 24 years of service with all consequential service benefits.

2. The brief facts of the case are that the applicant who was initially appointed as Lab 'B' in the scale of Rs.196-232 was promoted as Machine Operator w.e.f. 27.12.1982 with notional seniority w.e.f. 1.7.1981 in the scale of Rs.210-290. The applicant was further re-designated from Machine Operator (semi skilled) to Machinist Engineer in the scale of Rs.950-1150 w.e.f. 2.5.90 as per Guha Committee. In this list, his name was published at Sl.No.211 and the name of respondent No.4 is at 214. The applicant's scale was further upgraded to Rs.4000-6000 vide order dated 31.7.2002. The list was prepared not according to the seniority. The applicant is challenging the order No.655 dated 16.4.2004 whereby the other employee along with his junior respondent No.4 has been awarded the scale of Rs.5000-8000 under the Assured Career Progression Scheme, after completion of 24 years of service. The applicant submitted a representation to respondent No.3 regarding his grievance that his junior has been awarded the scale Rs.5000-8000 and his name has been deleted from the said list after completion of 24 years of service. Hence this OA is filed.

3. Heard the learned counsel for the parties. It is argued on behalf of the applicant that the applicant was redesignated from Machine Operator (semi skilled) to Machinist Engineer in the scale of Rs.950-1150 amongst all other employees w.e.f. 2.5.90 as per Guha Committee. In this list, his name is at Sl.No.211 and the name of respondent No.4 is at 214.



Apparently, private respondent No.4 was junior to the applicant. The applicant was further upgraded in the scale of Rs.4000-6000 vide order dated 31.7.2002. But this list was not prepared according to the actual seniority. By passing the impugned order dated 16.4.2004 (Annexure A4), respondent No.4 has been awarded the scale of Rs.5000-8000 under the ACP Scheme after completion of 24 years of service, ignoring the rightful claim of the applicant. Hence the applicant moved representations but these were not considered by the respondents. The applicant is legally entitled for the relief claimed.

4. In reply, the learned counsel for the respondents argued that the applicant was appointed as casual labour 'B' w.e.f. 10.1.79 and his services were terminated w.e.f. 29.6.1979. Thereafter he was promoted to the post of Machine Operator w.e.f. 27.12.82. Again the applicant was promoted to the post of Machinist Engg. Skilled w.e.f. 2.5.90 in the pay scale of Rs.950-1500 but this promotion was considered as placement in the skilled grade in terms of O.F.Board's letter dated 4.1.2002. In the Factory Order dated 2.5.90, the name of the applicant was shown at Sl.No.211 and the name of respondent No.4 was at Sl.No.214. Thereafter the applicant was again promoted to the post of Machinist highly Skilled-II in the pay scale of Rs.4000-6000 vide order dated 31.7.2002. Thus it is clear that the applicant availed two regular promotions i.e. from Labour 'B' to Machine Operator (Semi Skilled) and from Machinist (Skilled) to Machinist (Highly Skilled)-II) within a period of 24 years from the date of regular appointment i.e. 10.7.79. Hence the applicant is not entitled for the relief claimed.

5. After hearing the learned counsel for the parties and carefully perusing the records, we find that the comparative statement containing the service particulars of the applicant and the respondent No.4 which is given in the reply clearly shows that the applicant was appointed as Lab 'B' on 10.7.1979 while private respondent No.4 was appointed on the

same post on 20.7.1979 i.e. after 10 days from the date of the applicant's appointment. Hence private respondent No.4 is junior to the applicant. The applicant was promoted as Machine Operator in the grade of Rs.210-290 (first promotion) and he was further promoted as Machinist (skilled) on 2.5.90 in the scale of Rs.950-1500 while private respondent No.4 was re-designated as Machine Operator on 10.5.81 in the scale of Rs.196-290 and he was granted E.C.C. on 16.10.1981 in the scale of Rs.210-290. The applicant was promoted as Machinist (Highly Skilled) on 30.4.2002 in the scale of Rs.4000-6000 on second promotion, while the private respondent is shown to have been promoted as Machinist (skilled) and granted 1st ACP on 9.8.99 (4000-6000) and then promoted as Mach.HS on 30.4.02 (4000-6000) and further granted 2nd ACP on 29.7.03 (5000-8000). A perusal of the comparative statement of both the employees clearly shows that the respondents have committed discrimination in the case of the applicant.

6. Considering all the facts and circumstances of the case, we are of the considered opinion that the OA deserves to be allowed. Accordingly we do so. The respondents are directed to provide the same benefit to the applicant which is provided to private respondent No.4. No costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

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पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....

समिति/पि उपस्थित:-

(1) सचिव, उच्च न्यायालय एवं उच्च न्यायालय, जबलपुर

(2) अध्यक्ष श्री/श्रीमती/.....के काउंसल

(3) सदस्य श्री/श्रीमती/.....के काउंसल

(4) वरिष्ठ, के.प.अ., जबलपुर उच्च न्यायालय

सूचना एवं आवश्यक कार्यवाही हेतु

रजिस्ट्रार

S. Chakravarti Adv

P.P. Khare Adv

Issued
On 22.3.03