

CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH

Original Application No. 772 of 2004

Jabalpur, this the *6th* day of *May*, 2005

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

T.K.Joshi
S/o Shri B.D.Joshi
Chargeman Grade I
Ordnance Factory Khmaria
Jabalpur.
R/o Foreman Line West Land
Khamaria, Jabalpur. Applicant.

(By advocate Shri Sudarshan Chakravarty)

Versus

1. Union of India through
The Secretary
Ministry of Defence Production
New Delhi.
2. Chairman/D.G.O.F.
Ordnance Factory Board
S.K.Ram Bose Road
Kolkata.
3. General Manager
Ordnance Factory Khmaria
Jabalpur.
4. H.N.Pandey
S/o Late R.S.Pandey
Assistant Foreman
Electrical Section
Ordnance Factory, Khamaria
Jabalpur. Respondents.

(By advocate Shri A.P.Khare)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following reliefs:

- (i) To quash the orders dated 10.8.1999 and 5.4.2004.
- (ii) To direct the respondents to promote the applicant from the date when his junior was promoted with all consequential benefits.
- (iii) To direct the respondents to provide notional seniority to the applicant
- (iv) To direct the respondents to correct the gradation/seniority list.

2. The brief facts of the case are that the applicant who was recruited in the Industrial Cadre, appeared in the written examination/interview for the post of Supervisor 'B' (Tech) along with respondent No.4. In the Annexure A1 order dated 4.10.1983, the position of applicant is at Sl.No.2 and that of respondent No.4 is at 3. Respondent No.4 got promotion to Chargeman Grade I with effect from 2.8.99 vide order dated 10.8.99 (Annexure A2) and was awarded notional seniority with effect from 31.5.99. The applicant got promotion to Chargeman Grade I with effect from 21.2.2000 but the notional seniority was not given. It is alleged in the application that at the time of re-designation to Chargeman Grade II, the seniority position of the applicant got disturbed, which clearly shows in the gradation list of Chargeman Grade I dated 1.1.2002 in which the name of respondent No.4 is at S.No.127 and that of the applicant is at S.No.162. The applicant submitted a representation to respondent No.3 in regard to his seniority but the representation was rejected on ground of delay. The applicant submitted an appeal (Annexure A7) which has not been decided till date. Thereafter, the DPC was convened and respondent No.4 was again promoted to the post of Assistant Foreman with effect from 29.3.2004 but the case of the applicant was not considered. The inaction on the part of the respondents is illegal, arbitrary, discriminatory and malafide. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the respondent No.4 who is junior to the applicant has been given promotion with notional seniority but the case of the applicant for such notional seniority has not been considered due to malafide intention of the respondents. Therefore, the inaction on the part of the respondents is in violation of Articles 14 & 16 of the Constitution of India. He further argued that the appeal of the applicant has not been decided till date nor has he been communicated in regard to his appeal, which shows the callous attitude of the respondents. The learned counsel further argued that the he would be satisfied if the respondents are directed to decide the appeal of the applicant and that the respondents should not take the plea of any delay caused on the part of the applicant in submitting his representation/appeal. The learned counsel for the respondents has no objection to such a course being adopted.

4. In the light of what is stated above and as agreed to by the learned counsel on both sides, we direct the respondents to consider and decide the appeal submitted by the applicant Annexure A7 on merit within a period of three months from the date of receipt of a copy of this order. It is, however, made clear that the respondents shall not take the plea of any delay on the part of the applicant in submitting the appeal.

5. With the above direction, the OA is disposed of. No costs.


(Madan Mohan)
Judicial Member

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(M.P. Singh)
Vice Chairman