

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 27 of 2001

Goalier, this the 5<sup>th</sup> day of April, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman

Hon'ble Mr. Madan Mohan, Judicial Member

A.K. Choudhary, aged about 37 years,

S/o Shri Ramchalitar Choudhary,

Fitter-II, Security Paper Mill

Hoshangabad/M.P.

APPLICANT

(By Advocate- Shri Pradeep Shahu on behalf of Shri Vinay Nayak)

V E R S U S

1. Secretary Ministry of Finance,  
Union of India, Deptt. of  
Economic Affairs, New Delhi.

2. Secretary, UPSC Union of  
India, New Delhi.

3. Deputy General Manager,  
Head of the Department,  
Security paper Mill  
Hoshangabad/M.P.

4. A.K. Sharma, Fitter/Gd-II  
Security Paper Mill,  
Hoshangabad/M.P.

RESPONDENTS

(By Advocate - None)

O R D E R

By Madan Mohan, Judicial Member

By filing this original Application the applicant has sought the following main relief :-

"(i) ... the respondents may kindly be directed to give seniority him, above the respondent No.(4), and also direct the respondents to give proforma Promotion, giving effect of Annex.A/1 from 25.1.2003, on which date respondent No.(4) has been promoted. And other consequential benefits with arrears may also kindly be granted to the applicant.

2. The brief facts of the case are that the applicant was appointed on the post of Black-smith in the Mechanical department under the respondents on 18.7.1989. He was confirmed on 8.7.91 whereas the private respondent No.4 was appointed on the post of Plumber and was having less pay scale than the applicant. Therefore, the private respondent no.4 was junior to the applicant. On the recommendation of the National Pay Commission(in short NPC) the grade of Black-smith was degrade from Grade-II to Grade-III. According to the applicant the respondents has rejected his representation on 10.2.1998. The applicant has been superseded vide Annexure-A-2 from which he suffered with monetory loss, seniority etc. with effect from 25.1.2003.

Hence, this OA.



3. The respondents have filed their reply stated that private respondent No.4 Shri A.K. Sharma was appointed much earlier to the applicant i.e. on 28.2.1989 as Plumber Gr.III while the applicant was appointed on 18.7.1989 as Black-smith Gr.II. The respondents further stated that it is no longer *res-integra* that scale of pay determines the seniority of an official. It is the date of appointment, i.e. the departmental criteria for seniority and the private respondent no.4 was appointed much earlier. According to the respondents due to implementation of NPC's recommendations w.e.f. 21.10.92 on the basis of a tripartite agreement, the posts of the applicant and the private respondent No.4 were upgraded to the scale of Rs.1320-2040 in re-designated posts of Black-smith -II and Plumber-III, respectively. Seniority of these cadres are different, but as per recruitment rules of 1997(Annexure-R-1) both these cadres of Black-smith -III and Plumber-III are feeder cadres for promotion to the post of Fitter Gr.II. Even before implementation of NPC, both Black-smith Gr.II of pay scale of Rs.950-1500 and Plumber-III of pay scale of Rs.950-1400 were feeder grades for promotion to the post of Fitter Gr.II. As the applicant was appointed later than the private respondent no.4. The private respondent no.4 is apparently senior to the applicant. Hence, the action taken by them is perfectly legal and justified.

4. None is present on behalf of the respondents. We proceed to dispose of this by invoking the provisions of Rule 16 of CAT(Procedure) Rules, 1987. Heard the learned counsel for the applicant and perused the records carefully.

5. It is argued on behalf of the applicant that the private respondent No.4 was appointed on the post of Plumber Gr.III in the pay scale of Rs.950-1400 while the applicant was appointed on the post of Black-smith Gr.II in the pay scale of Rs.950-1500. Hence, apparently the applicant is senior to the private respondent No.4.



However, the respondents have ignored all these facts and treated the private respondent No.4 as senior to the applicant and he has been deprived of the monetary benefits and seniority w.e.f. 21.1.2003. Hence, the action of the respondents is illegal and not sustainable in the eyes of law.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that admittedly the applicant was appointed on 18.7.1989 on the post of Black-smith<sup>II</sup> in the pay scale of Rs.950-1500 while the private respondent no.4 was appointed much earlier to the applicant on 28.2.1989 on the post of Plumber-III in the pay scale of Rs. 950-1400. It is very clear that the private respondent No.4 is senior to the applicant. So far as the post, the applicant was appointed Black-smith Gr.II in the pay scale of Rs.950-1500 while the private respondent no.4 was appointed on the post of Plumber Gr.III in the pay scale of Rs.950-1400. The respondents have clarified this fact in their reply. According to the rules it is made clear by the respondents that due to implementation of the recommendation of the National Pay Commission on 21.10.92 on the basis of tripartite agreement, the posts of the applicant and the respondent No.4 were upgraded to the scale of Rs.1320-2040 in the re-designated posts of Black-smith-III and Plumber-III respectively. The seniority of these cadres are different, but as per recruitment rules of 1997(Annexure-A-3) both these cadres of Black-smith-III and Plumber-III are feeder cadres for promotion to the post of Fitter Gr.II. Thus, we are of the considered view that the OA deserves to be dismissed. Accordingly, the OA is dismissed. No costs.



(Madan Mohan)  
Judicial Member



(M.P. Singh)  
Vice Chairman