

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 286 of 2002

Jabalpur, this the 6th day of September, 2004

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

Uma Shankar Kashyam, s/o late Shri
Darbari Lal Kashyam, aged about 60 years,
Postal address : Assistant Foreman,
Vehicle Factory, Jabalpur, resident of
277, Bhan Talaiya, Khermai Ward,
Jabalpur, (MP), 482 002.

... Applicant

(By Advocate - Shri Rajesh Maindiretta)

V e r s u s

1. Union of India, Ministry of Defence, through its Secretary, New Delhi.
2. Chairman, Ordnance Factory Board, 10/A, Shaheed Khudiram Bose Road, Kolkatta 700001.
3. Senior General Manager, (Establishment Section), Vehicle Factory, Jabalpur.

... Respondents

(By Advocate - Shri P. Shankaran)

O R D E R

By Madan Mohan, Judicial Member -

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

- "a. direction for quashing the order dated 22.2.2002, Annexure A-11 passed by the respondent No. 3,
- b. direction to the respondents to fix the salary of the applicant in the scale over and above his juniors and lower grade employees."

2. The brief facts of the case are that the applicant was promoted on the post of Assistant Foreman in the Vehicle Factory, Jabalpur from the post of Chargeman Grade-I vide order dated 20.5.1993. The employees those who are promoted to the post of Assistant Foreman vide order dated 20.5.93, alongwith the applicant and are placed junior to the





applicant in the seniority list are drawing higher pay than the applicant. Shri A.P. Mitra and Shri R.S. Malviya were promoted to the post of Assistant Foreman (T) vide order dated 23.9.1994, whereas the applicant was promoted to the post of Assistant Foreman (T) vide order dated 20.5.1993. Thus, Shri A.P. Mitra and Shri R.S. Malviya are juniors to the applicant but are drawing higher salary than the applicant. The applicant submitted a representation to the respondents, but the same was not decided by the respondents. The applicant filed OA No. 68/97, in which the Tribunal vide order dated 7.10.1997 directed the respondents to consider the representation of the applicant within a period of three months. The respondents rejected the representation of the applicant vide letter dated 19.12.1997. The applicant again made a representation to the respondent No. 3 on 14.2.2002 which was also rejected vide order dated 22.2.02, stating the grounds that the juniors of the applicant named above were notionally promoted as Chargeman Grade-I and thereafter as Assistant Foreman, whereas the applicant was promoted as Chargeman Grade-I subsequently. The respondents have ignored the legal claim of the applicant. Hence, this OA.

3. Heard the learned counsel for the parties and perused the records carefully.

4. It is argued on behalf of the applicant that he was promoted as Assistant Foreman on 20.5.1993, while the (i.e. Shri A.P. Mitra & R.S. Malviya) alleged juniors named above were promoted vide orders dated 23.9.1994 & 20.5.1993. Hence, the applicant was apparently senior to all these persons while they are getting more pay than the applicant. It is clear violation of the rules and it is also against the principles of natural justice.



5. In reply the learned counsel for the respondents argued that the applicant was drawing basic pay of Rs. 268/- on 1.1.1973 in the pay scale of Rs. 260-430/- of Tracer, whereas all other juniors of the applicant as alleged by the applicant, were drawing more pay i.e. Rs. 425/- from 1.1.1973 in the pay scale of Rs. 425-700/- of Draughtsman. The others with whom the applicant referred his case were always drawing pay from time to time at a higher stage than the applicant. Therefore, only on the ground that his promotion was earlier than the others and he happened to draw less pay than others on promoted grade of Asstt. Foreman (Tech.), he is not entitled to get his pay fixed at par with his alleged juniors unless he fulfills all other conditions as per relevant rules. His case for parity of pay with juniors is not covered under any provision. Thus, the action of the respondents is fully justified and proper.

6. After hearing the learned counsel for both the parties and on careful perusal of the records, we find that the Annexure R-1 clearly shows that the applicant was promoted as Chargeman Grade-II with effect from 1.6.1980, while Shri A.P. Mitra was promoted as Senior Draughtsman with effect from 1.4.1972 and Shri S.P. Thakur was promoted as Senior Draughtsman w.e.f. 1.1.1973. The pay of Shri R.S. Malviya was raised as Rs. 470/- with effect from 1.2.1975, while the applicant's pay was fixed to Rs. 425/- w.e.f. 1.6.1980. Hence, all these facts clearly show that the applicant was junior to all these three persons. The argument advanced on behalf of the applicant that he was promoted as Asstt. Foreman on 07.05.1993, while others were promoted afterwards is not alone sufficient ground to support his claim. The Hon'ble Supreme Court in the case of Union of India and another vs. R. Swaminathan & Ors., (1997) 7 SCC 690 in its para 10 has held as under :



"10. According to the aggrieved employees, this has resulted in an anomaly, Government order bearing No. F.2(78)-E.III(A)/66 dated 4.2.1966 has been issued for removal of anomaly by stepping up of pay of a senior on promotion drawing less pay than his junior. It provides as follows :

"10. Removal of anomaly by stepping up of pay of senior on promotion drawing less pay than his junior - (a) As a result of application of FR 22-C - In order to remove the anomaly of a government servant promoted or appointed to a higher post on or after 1.4.1961 drawing a lower rate of pay in that post than another government servant junior to him in the lower grade and promoted or appointed subsequently to another identical post, it has been decided that in such cases the pay of the senior officer in the higher post should be stepped up to a figure equal to the pay as fixed for the junior officer in that higher post. The stepping up should be done with effect from the date of promotion or appointment of the junior officer and will be subject to the following conditions, namely :

(a) Both the junior and senior officers should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre;

(b) the scale of pay of the lower and higher posts in which they are entitled to draw pay should be identical;

(c) the anomaly should be directly as a result of the application of FR 22-C. For example, if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments, the above provisions will not be invoked to step up the pay of the senior officer.

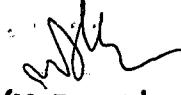
The orders refixing the pay of the senior officers in accordance with the above provisions shall be issued under FR 27. The next increment of the senior officer will be drawn on completion of the requisite qualifying service with effect from the date of refixation of pay."

The applicants case is not covered in any of the three conditions as quoted above. Thus, we find that the order passed by the respondents are in accordance with rules and law. There is no irregularity or illegality committed by the respondents while passing the impugned order.



7. Accordingly, we are of the considered opinion that the applicant has failed to prove his case and this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. There shall be no order as to costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

"SA"

पृष्ठांकन सं ओ/न्या.....जवलामुख, दि.....
पत्रिलिपि अलो रिपो

(1) सचिव, उच्च आदानप्रदान एवं एडमिनिस्ट्रेशन, जबलपुर *Shri Rakesh Mandavila*
H.C. 108
(2) आवेदक श्री/श्री गोपाल कुमार काठसल *Shri P. Shankar*
(3) प्रतराषी श्री/श्री गोपाल कुमार काठसल *Shri P. Shankar*
(4) अधिकारी, कोर्टपाल, जबलपुर व्यापारी देश

सूचना एवं आवश्यक दाखिलाएँ देश
1523 उप रजिस्ट्रार

*Issued
On 10-9-07*