

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 333 of 2002

Jabalpur, this the 6th day of November, 2003

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

R.P. Shrivastava, S/o. late
Shri B.S. Shrivastava, Asstt.
Foreman, Section Q-3, Ordnance
Factory Khamaria, Jabalpur.

... Applicant

(By Advocate - Shri M.B. Shrivastava)

V e r s u s

1. Union of India,
through the Secretary,
Ministry of Defence, New Delhi.
2. The Chairman, Ordnance Factories
Board, 10-A Auckland Road,
Calcutta.
3. The Controller, Controllerate of
Inspection/Armaments/Kirkee/
Pune/.
4. General Manager, Ordnance Factory
Khamaria.
5. Deshpati Singh, Junior Works
Manager, Ordnance Factory Khamaria,
Jabalpur.
6. V.S. Singh, Junior Works Manager,
Ordnance Factory Khamaria,
Jabalpur.

... Respondents

(By Advocate - Shri P. Shankaran for the official respondents)

O R D E R

By G. Shanthappa, Judicial Member -

The above application is filed seeking the following
reliefs :


- "1. That this Hon'ble Tribunal be please to direct the respondents No. 1 to 4 to Promote the applicant to the post of Assistant Foreman from the date the respondent No. 5 and 6 are promoted and also direct the respondents No. 1 and 4 to promote the applicant as Junior Works Manager from 15.2.02, as respondents 5 and 6 are promoted with all back wages and consequential benefits, in view of seniority granted by Annex.A/2.
2. Any other relief which this Hon'ble Tribunal deems fit and proper in the interest of justice."

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2. The case of the applicant is that the applicant has been appointed as Viewer-B and posted to work in the office of the Inspectorate of Armaments, Ordnance Factory Khamaria. The applicant was promoted to the post of Supervisor Grade-III on 06.11.1964 and subsequently he was promoted on ad-hoc basis as Supervisor Grade-II from 21.03.1972 to 17.09.1972 for a period of six months only. The post of Supervisor Grade-II, where he was on ad-hoc basis, the applicant served with the satisfaction of his higher authorities.

3. Due to merger of Inspectorate of Armament with factory establishment on 19.10.1984, the applicant has been re-designated as Chargeman Grade-II with effect from 01.03.1977. As per the S.P. Roll, the applicant has been shown as Chargeman/Redesignated/since January 1980 and as per the new S.P. Roll the applicant has been shown as Chargeman Grade-II as promotee with effect from 01.03.1977 which is at serial No. 217. Since it was an injustice caused to him the applicant made representation to the respondent No. 4 vide his representation dated 21.08.1985 as per Annexure A-1.


4. The applicant has received the intimation from the respondent No. 4 vide Annexure A-2 dated 26.10.1985, informing the applicant that he has been redesignated as Chargeman Grade-II as per Government orders and it was confirmed with effect from 01.03.1977. The respondent No. 2 has published the list of seniority of Chargemen Grade-II vide Annexure A-3 dated 19.05.1994, in view of the review DPC. The case of the applicant is that due to non-entering of the applicant's promotion to Chargeman Grade-II with effect from 01.03.1977, with seniority for all purposes, treating from January 1980, as wrongly published in S.P. Roll of Chargeman Grade-II published in 1985, the applicant's junior has been promoted and became Junior Works Manager. But the applicant has been



promoted as Assistant Foreman from Chargeman Grade-I with effect from 18.03.1996 vide Annexure A-5 issued by the respondent No. 2. The applicant had submitted his representation dated 21.09.1999 (Annexure A-6) to the respondent No. 4 who corrected the entries of seniority in Chargeman Grade by deleting 01.01.1980 and correcting it as 01.03.1977 as order dated 26.10.1985 (Annexure A-7). There is a mistake committed by the respondents while preparing the seniority list of Assistant Foreman published in which the applicant's name finds place at serial No. 749, shown promoted as Assistant Foreman ^{with effect} from 15.12.1997, whereas the applicant has been promoted as Assistant Foreman with effect from 18.03.1996. The same mistake has been committed in the seniority list of Assistant Foreman published on 16.07.1998 as per Annexure A-7. Again the same mistake was repeated inspite of the representations given by the applicant.

5. The counsel for the applicant has submitted that the juniors to the applicant i.e. R.M. Prasad and Shri S.P. Bhattacharya are being promoted earlier in all grade as Chargeman Grade-II and Asstt. Foreman as per the comparative table at Annexure A-12. The applicant made the 3rd representation dated 21.08.2000 and also submitted a reminder representation dated 27.12.2001 with respondent No. 2, but no action has been taken and his grievances has not been considered.


6. Per contra, the respondents No. 1 to 4 have filed their return by denying the allegations and averments made in the OA. The main contentions urged by the respondents is that the application is liable to be dismissed on the ground of laches, since the seniority of the applicant was published on 26.10.1985, the applicant submitted repeated representations and filed the OA on 01.05.2002. The appli-



cant has not filed any kind of Misc. Application for condonation of delay in filing the Original Application.

7. The said respondents have contended that the applicant submitted his representation (Annexure A-1) to the respondents No. 3 and 4, but both of them have not given any clarification to the applicant. Annexure A-2 dated 26.10.1985 was issued to the Works Manager (ADW). In the said letter there is no mention that the copy was sent to the higher authorities, therefore the said letter is not in service record. As per the seniority list of Chargeman Grade-II (Engineer) published vide OFB No. 108/NG/TS/GC, dated 29.01.1986, the applicant is placed at serial No. 33 with date of holding the post with effect from 01.01.1980. As per the seniority list the applicant is all along junior to Shri R.M. Prasad and Shri S.P. Bhattacharya in the grade of Chargeman Grade-II (Mech.), Chargeman Grade-I (Mech.) and A.F.(Mech.). But the applicant has not made a party in present OA. Only the averments^{has been} made in paragraph 4.13 against the said employees. Thus the OA has to be dismissed due to misjoinder of the parties. The applicant never challenged the seniority list dated 29.10.86. The respondents have produced the order of seniority list dated 29.01.1986 (Annexure R-1). In the said seniority as on 29.01.1986 the applicant is at serial No. 33. The said seniority list is in respect of the Chargeman Grade-II (Engineers) which were transferred from DGI to DGOF as Chargeman Grade-II. The respondents have also produced MOD orders dated 30.04.1985 vide Annexure R-2 in respect of fitment of certain categories of personnel belonging to DGI transferred to DGOF. The order dated 30.01.1980 is in respect of Supervisor-A (Tech.) and allied grades in Ordnance Equipment Fys - merger of and also order dated 12.02.1980 is in respect of Supervisor-A (Tech.), GI-Planner, Sr. Rate Fixer and Sr. Estimator - merger with Chargeman Grade-II (Tech.).

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8. The respondents have also submitted the decision of the Full Bench of CAT, Principal Bench, New Delhi reported in AT FB Judgments (PB) (1994-96), Page 313 - Shri A.K. Mukhopadhyaya & Ors. Versus General Manager, Grey Iron Foundary, Jabalpur and Ors. According to the said judgment the issue decided in respect of promotion-seniority-promotion from the post of Supervisors 'A' to Chargemen-II and such promotions be made in accordance with recruitment rules and not from any earlier date on the basis of the circular dated 06.11.1962. The seniority is to be reckoned from the date of their promotion on the basis of the normal rules and not from the date of completing two years of service as Supervisor 'A'.
9. The applicant has submitted his rejoinder to the reply to the respondents. In the rejoinder he has taken a ground that the applicant was working as Chargeman Grade-II in Inspectorate of Armament Khamaria and was transferred to Ordnance Factory, Khamaria, Jabalpur with the post with effect from 19.10.1984 consequent to the acceptance by the Government on the recommendation by the Rajadaksha Committee on handing over Stage/Inter Stage responsibilities. The respondents clarified that the applicant has been redesignated to the grade of Chargeman-II from Supervisor/Tech. Grade-II as per Government orders with the date of seniority with effect from 01.03.1977. The applicant has not brought any new facts in pursuance to the reply filed by the respondents. The applicant has not stated about the delay in filing the Original Application. He has also not filed any application for condonation of delay in pursuance to the reply statement.
10. After perusal of the pleadings and the documents on record and after hearing both the sides, we have decided the
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case on merits, by considering the ground of laches.

11. The main ground alleged by the respondents is that the applicant has approached this Tribunal after lapse of so many years, even he did not approach the respondents to rectify the so called alleged mistake well in time. According to the respondents they have not committed any mistakes. The applicant has not explained the delay from 18.09.1972 to 05.08.1985, in which his grievance is that his juniors have been promoted above him. According to the documents submitted by the applicant, first time the applicant has represented on 31.01.1996 (Annexure A-4). As per Annexure A-5 the seniority of the applicant is at serial No. 4 in respect of the Assistant Foreman (Tech.). According to this seniority list the orders of promotion to the post of Assistant Foreman (Tech) was with effect from 18.03.1996. The applicant did not submit his representation for three years, finally after lapse of three years on 21.09.1999 he submitted his objections vide Annexure A-6 alongwith the seniority list of Assistant Foreman. In the said seniority list the name of the applicant is at serial No. 749. As per the seniority list of the Assistant Foreman (Mech.) as on 01.07.1998 in the pay scale of Rs. 6500-10500/- the seniority of the applicant is at serial No. 1376. Subsequently the applicant submitted repeated representations dated 11.11.1999, 17.02.2000 (Annexure A-10) and 21.08.2000 (Annexure A-11). Subsequently reminders were also submitted. Mere submitting the representations and reminders the grievances of the applicant cannot be considered. Admittedly the applicant has not submitted any kind of MA for condonation of delay in filing the OA and he has not made the necessary parties in the OA.



12. The respondents No. 5 and 6 are made parties to the proceedings and ^{of the applicant} the grievance is that the respondents No. 5 and 6 are juniors to him and they have been placed above the applicant in the seniority list. According to the seniority list at Annexure A-6 the 5th respondent is at serial No. 318 and the 6th respondent is at serial No. 320 but the seniority of the applicant is at serial No. 749. Admittedly ~~respondents~~ ^{is the junior and} the applicant the respondents No. 5 and 6 are the seniors. The applicant has not made out his case for grant of any reliefs since he has not explained the delay in approaching the respondents Nos. 1 to 4 well in time and admittedly he had submitted repeated representations to rectify the seniority list alleging that the respondents No. 5 and 6 are juniors to him and they have been promoted above the applicant. The respondents have clearly mentioned that the cause of action arose on 26.10.1985 and the seniority list as per Annexure A-5 was published on 19.03.1996. From the date of the cause of action, the applicant waited for some time and the said delay has not been explained and the OA is filed ^{on 01.05.2002} challenging the seniority given to the respondents No. 5 and 6.

~~XXXXXXXXXXXX~~ Hence the applicant has not made out
his case for grant of any kind of relief ^{as} prayed in the OA.

13. Accordingly, the Original Application is dismissed as barred by limitation, with no order as to costs.

G. Shanthappa
(G. Shanthappa)
Judicial Member

(M.P. Singh)
Vice Chairman

पृठांकन सं ओ/ज्या..... जन्मवार दि.....
पत्तिलिपि अद्यो धिपि.....

"SA"

(1) रसोदय, उत्तम अक्षरालय एवं प्रसिद्धि के लिए प्रकाशक
(2) प्रकाशक श्री/श्रीमती/कु. प्रकाशक M.B. Shrivastava, A.S.
(3) प्रकाशक श्री/श्रीमती/कु. प्रकाशक P. Shankaran, A.S.
(4) प्रकाशक श्री/श्रीमती/कु. प्रकाशक

Travel
11-10-05

उप-संयोजक 18/11/03