

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

....

original Application No. 607/2001

Jabalpur, this the 29th day of July, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Member (J)

N.N.Roy Choudhury s/o late R.N.Roy Choudhury,
aged about 62 years, Retired Asstt. Foreman,
ordnance Factory, Khamaria, bearing Permit
No. 845982,
R/o H.No. 18, J.D.A. Colony,
Ranjhi, PO Ranjhi, Jabalpur (MP).

...Applicant

(By Advocate: Shri K.K. Dutta)

-versus-

1. Union of India through
Secretary,
Department of Defence Production,
Ministry of Defence,
New Delhi.
2. The Chairman,
Ordnance Factory Board,
10/A, Shaheed Khudiram Bose Road,
Kolkata, West Bengal.
3. The General Manager,
Ordnance Factory,
Khamaria, Post. Khamaria,
Jabalpur (MP).

...Respondents

(By Advocate: Shri S.A.Dharmadhikari)

O R D E R

By Madan Mohan, Judicial Member -

By filing this original application, the applicant has
sought the following main reliefs:

- i) to direct the respondents to promote the applicant
in the post of Asstt. Foreman prior to Shri S.S.Lal
Ojha, who was placed at serial no. 549 of the
seniority list of Asstt. Foreman as such the
Hon'ble Tribunal be kind to direct the respondents
to place the above Shri Ojha and further direct to
modify the order of promotion accordingly.
- ii) to direct the respondents to allow further promo-
tion as Junior Works Manager as given to the
junior to the applicant.
- iii) to direct the respondents to allow the benefit of
pay as given to others as per OA 2601/1994 by the
Larger Bench.



2. The brief facts of the case are that the applicant prior to IIIrd Central Pay Commission was working the post of Senior Draftsman. The said Pay Commission granted 50% of the existing senior draftsmen as on 11.12.1972 in the pay scale of Rs. 425-700 and rest 50% in lower pay scale. This action of the respondents resisted by the applicant and other senior Draftsmen by raising their grievances before the Hon'ble High Court of M.P. The applicant was fixed in the pay scale of Rs. 425-700 w.e.f. 1.1.1973. The said pay scale is identical also for the post of Chargeman Gr.II and senior Draftsmen is feeder post for Chargeman Gr.II, therefore, the applicant alongwith others had filed a writ petition bearing no. MP/312/1991 in which the applicant was also a party. The writ petition, as referred to above, was allowed by the Hon'ble High Court and directed the respondents to prepare a revised seniority list of Chargemen Gr.II as on 1.1.1973 by including all the senior draftsmen in that list and further to review the promotion of Chargemen Gr.I. According to the judgement, the applicant seniority should have been shown in between Shri Ramniwas and Shri S.S.Lal Ojha as per the said seniority, the applicant should have been promoted as Chargemen Gr.I with effect from 1979 and next promotion to the post of Assistant Foreman w.e.f. 1982 as given to applicant's junior Shri S.S.Lal Ojha. The applicant out of the petitioners had been signled out and he had not been given promotion alongwith others. Hence, he filed an O.A. No. 39/1986 which was allowed by the Hon'ble Tribunal and thereby directed the respondents to further review applicant's case by a special review committee or committes in the light of the observations contained in the judgement. The respondents had not implemented the judgement on the plea that as per the judgement of the Larger Bench of C.A.T. in OA No. 2601/94 and other 42 cases clubbed together the leading case being in the name of A.K.Mukhopadhyay & Ors. vs. UOI decided on 22.12.1995 the total seniority list of the rank of Chargeman Gr.II with

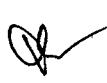


we.f. 1973 will be revised and only after that any review of seniority or promotion can be given. In the year 1996 vide order dated 15.11.1996 the seniority list of Chargeman Gr.II (Mech.) as on 1.1.1980 was published in that list the applicant was shown rightly with others at serial no. 1269 above Shri S.S.Lal ojha who was placed at serial no. 1272. On the basis of revised date of promotion in the post of Chargeman Gr.I the seniority list of Chargeman Gr.I had been modified and published in that the applicant was placed at serial no. 560 and that Shri S.S.Lal ojha has been shown at serial no. 563.

While promoting notionally in that post, the respondents on the revised date of promotion dated 30.5.1983 has considered all the Chargemen Gr.I promoted on the date 19.12.1979 in the review D.P.C. for Asstt. Foreman. The respondents actually has considered upto serial no. 744 of the seniority list of Chargemen Gr.I. As stated earlier the applicant is at serial no. 560 therefore near about 175 persons junior to the applicant have been promoted as on 30.4.1983 as Assistant Foreman. Finally the applicant was shown promoted as Assistant Foreman on 30.6.1986 and find place in the revised seniority list of Asstt. Foreman at serial no. 748. The relevant factory order of promotion was published by the Ordnance Factory, Khamaria vide its F.O. No. 3024 dated 5.9.1999 for the post of Assistant Foreman. The applicant immediately represented and sent reminders also for several times after being dissatisfied with the response of the respondents. Hence, this application has been filed by the applicant seeking the aforesaid reliefs.


3. Heard the learned counsel for both the parties.

4. It is argued on behalf of the applicant that apparently the applicant was senior to one Shri S.S.Lal ojha while his serial no. in the seniority list was 563 whereas the applicant was shown at serial no. 560 in the seniority list of Chargemen Gr.I(Mech.) as on 1.9.1989. The applicant was also shown senior in the provisional list of seniority prepared on 22.12.1995 for Chargemen Gr.II as on 1.1.1980 placing the applicant at serial



no. 1269 while Shri S.S.Lal Ojha was placed at serial no.1272. It is further argued that the junior employee i.e. Shri S.S.Lal Ojha was promoted as Asstt. Foreman w.e.f. 30.4.1983 as shown in the seniority list (A/1), As per Larger Bench judgement in/O.A. No. 2601/94 decided on 22.12.1995 ignoring the applicant and shown to have been promoted as Asstt. Foreman w.e.f. 30.12.1986. Thus, the action of the respondents in promoting Shri S.S.Lal Ojha, junior to the applicant, to the post of Asstt. Foreman before the applicant is illegal, contrary to rules and regulation and, therefore, the applicant deserves to be promoted from the date his junior was promoted as Assistant Foreman.

5. In reply, the learned counsel for the respondents and Chargeman Gr.I(Tech) argued that seniority list in the Chargemen Gr.II (Tech)/have been revised and, therefore, the relevant D.P.C. proceeding from the year 1980 to 1983 for promotion of Assistant Foreman (Mech) have been revised and relevant select list have also undergone changes. While reviewing the earlier D.P.C., A.C.R. gradings were considered and relevant DPC took note of these gradings in the ACRs. The post of Asstt. Foreman (Mech) is based on selections list prepared by relevant DPC, as per S.R.O. 4/56 and rule 8 of the said recruitment rules. The applicant was graded 'GOOD' in the ACRs for 1983-84, 'VERY GOOD' in 1985-86, In view of the above ACRs, the relevant DPC graded the applicant as 'VERY GOOD' and found him unfit for inclusion in the select list in the year 1986, and on the basis of this select list prepared in the year 1986, the applicant was assigned promotion w.e.f. 30.4.1986. Since the applicant was graded 'GOOD' in the year 1980-81, 81-82 and 82-83, he was not found fit in 1984 DPC and hence he was not included in the selection list whereas Shri S.S.Lal Ojha though junior to the applicant in the Chargeman Gr.I(Mech) was found fit in the relevant D.P.C. because of his 'VERY GOOD' grading and promoted notionally w.e.f. 30.4.1984. Hence, no irregularity or illegality has been committed by the



respondents while revising the seniority lists and granting promotion in accordance thereof.

6. After hearing the learned counsel for both the parties, and careful perusal of the record, we find that the arguments advanced on behalf of the respondents regarding ACRs of the applicant in the year 1980-81, 1981-82 and 1982-83, the DPC did not find the applicant fit for promotion in the year 1984 and hence he was not included in the selection list whereas S.S.Lal Ojha though junior to the applicant in the Chargemen Gr.I(Mech) was found fit in the relevant D.P.C. and this was the sole ground on which the applicant was ignored for promotion to the post of Asstt. Foreman, seems to be correct. According to the documents submitted by the respondents, it is noticed that the applicant's junior Shri S.S.Lal Ojha has rightly been promoted as Assistant Foreman w.e.f. 1983. Hence, no irregularity or illegality seems to have been committed by the respondents while passing the impugned orders. The applicant was graded Good in the ACRs for 1983-84, Very good in 1984-85, Very good in 1985-86. In view of these gradings, the DPC graded the applicant as Very good and found him fit for inclusion in the select list in the year 1986, and on the basis of this select list prepared in the year 1986, the applicant was assigned promotion w.e.f. 30.4.1986. We have also perused the ACRs of the applicant as well as of the applicant's alleged junior Shri S.S. Lal Ojha and we find that the arguments of the respondents are correct that the DPC has rightly considered the case of both the persons and granted promotion to the applicant's junior Shri S.S. Lal Ojha before the applicant. Thus, we do not find any ground to interfere with the action of the respondents.

7. Accordingly, the Original Application is liable to be dismissed as having no merits. Hence, the same is dismissed.

No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"