

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

CA No.705/02

Jabalpur, this the 15th day of September, 2004.

C O R A M

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

Kaushik Das
S/o Late Kripamoi Das
R/o MIG-72, New Anand Nagar
Adharthal, Jabalpur.(MP)

...Applicant

(By advocate Smt.S.Menon)

Versus

1. Union of India
Through Secretary
Ministry of Defence Production
New Delhi.
2. Ordnance Factory Board
10-A, Shaheed Khudiram Bose Road
Calcutta, through its Director
General, Ordnance Factory Board
Kolkata (WB)
3. Senior General Manager
Gun Carriage Factory
Jabalpur (MP)

...Respondents

(By advocate Shri K.N.Pethia for official
respondents)


O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks the following
reliefs:

- (i) To quash the order dated 11.10.99 passed by
respondent No.3 and direct the said respondent
to implement the order of the Board dated
3.7.97 in its true perspective.
- (ii) To quash the order dated 2.12.02 (Annexure A19)
issued by respondent No.3 and hold it as ab initio
void.
- (iii) To direct the respondents to place the applicant
above respondents 5 & 6 respectively and grant
him all consequential service benefits to which
he is entitled in the eyes of law.
- (iv) To direct respondent No.3 to grant the applicant
all consequential and ancillary service benefits.

2. The brief facts of the case are as follows:
The applicant was appointed as a Turner 'C' w.e.f. 24.11.1972 in the Vehicle Factory, Jabalpur. Later on he was selected as a skilled Craftsman trainee. He was allocated Borer/Jig Borer Trade for the training w.e.f. 17.3.75 to 16.3.77. Gradation based on overall performance of training was made in three different grades i.e. Jig Borer, Borer/Jig Borer Grade 'A' and Borer/Jig Borer Grade 'B' in the pay scale of Rs.260-400 and Rs.320-400 respectively. The applicant was appointed in the grade of Borer/Jig Borer 'A'. In the year 1984, an expert body i.e. Expert Classification Committee appointed by the Govt. of India gave its report, wherein the pay scale of Borer/Jig Borer was revised among other categories. Besides this, those who had undergone training along with the applicant and even juniors were later promoted to the post of Chargeman Grade II (T) w.e.f. 10.5.93. A chart is being detailed along with the OA to depict the date of appointment of the applicant and those appointed later than him. It is clear from the chart that the incumbents who were nearly 3 1/2 years junior to the applicant and whose training was extended for six months were placed in the higher pay scale and post. Despite clear instructions and decision and direction of respondent No.2, no action was taken by the respondent No.3 and therefore the applicant submitted a representation to the Chairman and DGOF on 15.2.99. Respondent No.3 vide letter dated 11.10.99 ordered that the appointment as Borer and the terms and conditions of his appointment as a Borer cannot be changed at the belated stage. The order passed was in contra to the order of 3.7.97 and it was made clear through the said order that as a very special case, he be paid Rs.380-560 w.e.f.17.10.83 for the benefit of financial benefit only and no other. The said order could not have been passed by



the respondent No.3 in the garb of appellate order for the simple reason that respondent No.3 is required to comply with the order of 3.7.97 in its true perspective. Therefore the order of 11.10.99 is palpably illegal, improper and is called in question through this OA. After issuance of the said order the applicant submitted a representation to respondent No.2. It has been pointed out by the applicant in this OA that several employees have benefited in as much as they were also designated as Borer 'A'. Respondent No.5 Shri R.S.Gupta underwent the trade of training as Borer/Jig Borer in the 3rd batch of the year 1981 and he came to be appointed as Jig Borer 'A' with effect from 1.9.80. He was appointed by same authority like the applicant and has been functioning as Chargeman Gr.I since 21.12.2001.

Respondent No.3 ignored the decision of respondent No.2 (Annexure A4) and, therefore, the order dated 2.4.02¹² is arbitrary, illegal, discriminatory and liable to be quashed.

3. Heard learned counsel for both parties except for the private respondents. It is argued on behalf of the applicant that Annexure A9 shows the present status with juniors SCT - III Batch GCF and in which the name of applicant is shown at ¹top while the name of R.S.Gupta is shown as 3rd. Apparently applicant was senior to R.S.Gupta. The counsel further argued that Ordnance Factory Board issued a letter dated 3rd July 1997 (Annexure A4(a)) in which it is mentioned that the factory under their letter dated 14.12.96 has confirmed that Shri Kaushik Das, T.No.7⁹315/IE/HS-I, Sec.IFG was working on Jig Boring machine w.e.f.17.10.77 to December 1985 and at present working on Precision Boring Machine similar to Jig Boring Machine. Accordingly it has been decided that the concerned individual may be designated as Jig Borer on the basis of his nature of work being



performed as on 17.10.83. But ignoring this letter issued by the Ordnance Factory Board, Calcutta, respondent No.3 passed another order in contravention of the afore-said order - Annexure A5(a) dated 11.10.99 in which it is mentioned that considering his appointment as borer and the terms and conditions of his appointment as borer cannot be changed at this belated stage, the applicant was given the pay scale of Rs.380-560 w.e.f.17.10.83 for the purpose of financial benefit only and no other. Hence this order was in contravention of order of the superior authority i.e. Respondent No.3, which is apparently illegal. The applicant submitted a representation against this order but that was also rejected. He further argued that the claim of R.S.Gupta was considered, as is shown in A14 while he was junior to the applicant. Hence the applicant is entitled to relief claimed.

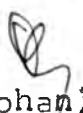
4. In reply, learned counsel for respondents argued that the orders passed by the respondents Annexure A-5 dated 11.10.99 and 2.12.02 (Annexure A-19) are in accordance with rules and law and after considering all facts and earlier orders of the authorities and in so far as the case of R.S.Gupta is concerned, the department corrected its mistake and R.S. Gupta was given the benefit claimed by him vide Annexure A14. Applicant cannot take benefit of it. Respondents have not committed any irregularity or illegality.

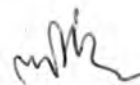
5. After considering the facts and circumstances of the case and careful perusal of the records, we find that R.S.Gupta was apparently junior to the applicant as is shown in Annexure A9. We have perused the order of the Ordnance Factory Board dated 3.7.97 (Annexure A4) in which the case of the applicant was discussed and this letter was addressed to the General Manager, Gun Carriage Factory, Jabalpur in which it is mentioned that the Factory under their letter dated 14.12.96 has confirmed that



the applicant was working on Jig Boring Machine w.e.f. 17.10.77 to Dec.1985 and at present working on Precision Boring machine similar to Jig Boring machine and accordingly it has been decided that the concerned individual may be designated as Jig Borer on the basis of his nature of work being performed as on 17.10.83, and that the pay fixation will be made notionally but no arrears will be paid and actual financial benefit will be given from the prospective date. Respondent No.3 passed the impugned order dated 11.10.99 in which it is mentioned that considering the appointment as borer and the terms and conditions of his appointment, it cannot be changed at this belated stage. It seems to be beyond the jurisdiction of respondent No.3 to ignore the letter issued from the Ordnance Factory Board, Calcutta dated 3.7.97 (Annexure A4) because respondent No.3 is a direct subordinate of respondent No.2. We have perused Annexure A14. It supports the arguments of the applicant, by which one R.S.Gupta who is junior to the applicant, was given the benefit and the respondents have admitted this fact and they corrected their mistake by this letter.

6. Considering the facts and circumstances of the case, we are of the opinion that the OA deserves to be allowed. Hence the OA is allowed. Impugned orders passed by the respondents Annexure A5 dated 11.10.99 and Annexure A19 dated 2.12.02 are quashed and set aside and the respondents are directed to consider the case of the applicant in accordance with the directions issued by respondent No.2 vide order dated 3rd July 1997 (Annexure A-4) ~~and grant him all consequential benefits.~~ No Cotts.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman