

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Transfer Application No. 64 of 1999
(In W.P. NO. 5708 of 1998)

Jabalpur, this the 5th day of February, 2004

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

Sujit Kumar Chakravarty,
S/o. Late J.N. Chakravarty,

and 20 others.

... Applicants

(By Advocate - Shri S. Nagu)

V e r s u s

Union of India, Through
Secretary, Department of
Defence, Production and Supply,
South Block, New Delhi,

and 22 others.

... Respondents

(By Advocate - Official respondents by Shri B.da.Silva,
Shri S. Paul for respondents Nos. 7, 8 & 12,
and none for other private respondents)

O R D E R

By G. Shanthappa, Judicial Member -

The applicants have claimed the following main reliefs:-

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"1. Quash the impugned promotion order dated 6.11.98 to the extent it supersedes the petitioners by the individual belonging to the remaining 50% senior draftsman mentioned from 12 to 69 in the impugned promotion order.

2. Direct the respondents to fix the correct seniority to the petitioners in accordance with the directions contented in the order of the Full Bench. And thereafter embark upon the exercise of promotion to the cadre of JWM.

3. Declare that the action of the respondents in assuming depressed seniority to the petitioners below the individual belonging to the category of remaining 50% senior draftsman is untenable in the eyes of law.

as
4. Direct the necessary consequences to consider the case of the petitioners for promotion to the post of JWM in accordance with the law based upon the correctly assumed seniority as per the decision of Full Bench of CAT."



2. The brief facts of the case as stated by the applicants are that the applicants are working as Assistant Foreman (Technical/Mechanical) at Vehicle Factory, Jabalpur and Ordinance Factory, Khameriya at Jabalpur. The particulars of their services are given at Annexure A-1. Each applicants have shown their category as (iii) and (iv) as per the judgment of the Full Bench of this Tribunal in OA No. 2601/1994 and other connected cases decided on 22nd December, 1995. The relief of the applicants is that the same may be granted as per Para 80 of the said orders of the Full Bench. Para 80 of the said order of the Full Bench is extracted below :

"80. To summarise, in our view, the various categories of Chargeman should be placed in the following order which will represent their inter-se-seniority.

- (i) The first lot of persons would be those who have been regularly appointed or promoted as Chargeman Grade-II before 1.1.1973.
- (ii) We declare that 50% of the Senior Draftsmen, in whose case the pay scales were revised and who have been given seniority from 1.1.1973 as a result of the judgment of the M.P. High Court, should be placed next in the seniority list as on 1.1.1973. They will be placed enbloc below the persons referred to at (i) above as also those persons who have been regularly appointed as Chargeman-II on 1.1.1973, in accordance with the recruitment rules then in force, either on the basis of promotion or on the basis of direct recruitment.
- (iii) Next to them in the seniority list would be the category of Chargeman Grade-II who have been regularly appointed after 1.1.1973 and upto 1.1.80 either by way of promotion or by way of direct recruitment, in accordance with the recruitment rules.
- (iv) This would be followed by the Supervisors 'A' and allied categories and the remaining 50% of the Sr. Draftsmen who had not been given the pay scale of Rs. 425-700 from 1.1.1973. The inter-se-seniority of the persons comprising this group, namely, the Supervisors 'A' etc. etc. and Senior Draftsmen will be decided on the basis of the seniority which existed between them immediately prior to 1.1.1980.
- (v) No group of Supervisor 'A' is entitled to an earlier date of promotion as Chargeman Grad-



e-II merely because of the Ordnance Factory's circular dated 6.11.1962, after that circular was notified on 26.1.65.

(vi) We declare that, in the light of the judgement of the Supreme Court in KKN Nair's case (1993) (2) Scale 469) no benefit of higher seniority can be given to the petitioners Virender Kumar and Ors. in AIR 1981 SC 1775, the petitioners in the batch of Misc. Petitions 174/01 and five others decided by the MP High Court on 4.4.1983, the applicants in TA No. 322/86 and TA No. 104/86 (B.H. Ananta Moorthy's case and Ravinder Gupta's case). Accordingly, all these persons will count their seniority as Chargeman Grade-II only from the dates on which they were actually promoted in accordance with the recruitment rules.

(vii) We further declare that the orders of Government quashing the seniority list dated 27.7.89, issued as a consequence of the judgement in Palurus case (AIR 1990 SC 1775), (Para 12 refers) (Annexure A-8 of Mannulal's case, OA 2591/1994) are valid in the light of the above judgement.

(viii) As a result of the above orders/declarations about the manner in which the seniority of Chargemen-II commencing from 1.1.1973 to 1.1.1980 should be fixed, it would be necessary to review the promotions made to the higher grades. This would be done yearwise for all categories. We make it clear that if it is found that any person was promoted in the past who was not due for such promotion, no action can be taken by the Government to make any recovery from him because he had already worked on a higher post of promotion on the basis of validly issued orders of promotion. In so far as the reversion is concerned, the principles have been stated in para 79 supra.

(ix) There are other orders which revised the pay scales of draftsman and senior draftsman. We are not concerned whether the benefit thereof has been given to the three categories of senior draftsman viz..(i) those who have been treated as Chargemen-II from 1.1.1973 (ii) those who have been merged in the category of Chargemen II from 1.1.1980 and (iii) those appointed as such after 1.1.80, if any. To forestall further complications, we declare that merely because they have become entitled to any pay scale higher than Rs. 425-700, it will not, ipso facto, mean that they are equivalent to any category of post higher than Chargeman-II and they cannot claim any benefit based on that higher pay scale."

2.1. The grievance of the applicants are that the private respondents are the juniors and while preparing the seniority list dated 6.11.1998, the official respondents have not followed the directions given by the Full Bench of this Tribunal. The reliefs prayed in this OA has been elaborately



decided by the Full Bench of this Tribunal referring the previous history of the Government orders right from 06.11.1962 in respect of the origin of the cadres of the Supervisor-B, Supervisor-A, Senior Draftsman, Senior Rate Fixer, Senior Planners and Senior Estimator. They were promoted as Chargeman Grade-II and further promoted as Chargeman Grade-I, Assistant Foreman and Foreman. Subsequently, the said dispute was decided by the Hon'ble Supreme Court in KKN Mair and others Versus Union of India reported in 1993(2) Scale 469, on the basis of the principles laid down by the Hon'ble Supreme Court in Palurus case reported in AIR 1990 SC 1775 in respect of the circular dated 29.06.1965 issued by the Director General of Ordnance Factory. The Hon'ble High Court of Madhya Pradesh has ^{a similar issue} decided ~~in~~ Dilip Singh Chouhan and others Versus Union of India and others. Subsequently the entire matter was settled and the matter was decided by the Hon'ble Supreme Court in the case of Virendra Kumar and others Versus Union of India and others reported in AIR 1981 SC 1775.

3. After considering all the various judgments of the Hon'ble Supreme Court, Hon'ble High Court the Full Bench of the Principal Bench of ~~this~~ ^{the} Tribunal has decided the case in respect of promotions to the Chargeman Grade-II under which the applicants are claiming that they are seniors to the private respondents. The official respondents have not properly applied the directions of the Full Bench of this Tribunal and prepared the seniority list dated 06.11.1998.

4. The private respondent one Shri D.P. Jhira and Shri G.C. Badli Kamani, were senior Draftsman as on 31.12.1972. They were ^{re}trated as Chargeman Grade-II with effect from 1.1.1973. They were placed in Category (ii) as per the

direction of the Full Bench of the Tribunal, whereas the applicants were being re-designated as Chargeman Grade-II (Mech./Tech.) with effect from 1.1.1980 and they were placed in category (iv). These facts are admitted by the applicants and the respondents.

5. Subsequently, the Calcutta Bench of this Tribunal has decided in OA No. 538/1997 regarding seniority of Chargeman Grade-II. The Calcutta Bench of this Tribunal has relied on the judgment of the Full Bench of this Tribunal in OA No. 2601/1994 and other connected cases, and rejected the OA on September, 2000.

6. Accordingly, after hearing the parties, perusing the records & judgments, we find that the facts and reliefs of this case are similar to the cases decided by the Full Bench of this Tribunal in OA No. 2601/1994 and other connected cases on 22nd December, 1995 and of the Calcutta Bench of this Tribunal in OA No. 538/1997 on September, 2000. Hence the law laid down by this Tribunal in the aforesaid cases are applicable to the present case.

7. In the result the Transfer Application is dismissed. No costs.

8. The Registry is directed to enclose a copy of the memo of parties of this Transfer Application, while issuing the certified copy of this order.

Filed
13-2-04
6-00-P.A

G. Shanthappa
(G. Shanthappa)
Judicial Member

M.P. Singh
(M.P. Singh)
Vice Chairman

"SA"

पुस्तक सं ओ/व्या.....जबलपुर, दि.....
पतिलिपि अर्द्धे

- (1) सचिव, उच्च न्यायालय, जबलपुर
 - (2) उपाध्यक्ष, विधि विभाग, जबलपुर के काउंसल
 - (3) उपाध्यक्ष, विधि विभाग, जबलपुर के काउंसल
 - (4) उपाध्यक्ष, विधि विभाग, जबलपुर के काउंसल
- सूचना एवं आवेदनक कार्यालय
उप रजिस्ट्रार
- S. Naresh, Adm.*
B. Dasilva, Adm.
S. Paul, Adm.
Rakesh Keshwan
2-2-04