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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.218 of 1998

Jabalpur, this the 22nd day of January, 2003.

Hon'ble Mr. Justice N.N. Singh- Vice Chairman
Hon'ble Mr. Sarweshwar Jha- Member (Admnv.)

1. Shri Ashish Kumar Bandopadhyaya,
S/o late Shri K.D. Bandopadhyaya,
aged 48 years, R/o Qtr. No. 112/E,
OFK Estate, Jabalpur (M.P.)
2. Shri Inder Pal Singh Talwar,
S/o Shri Har Kishan Singh Talwar,
aged 43 years, R/o H.No. 817,
Behind Block No., Hatital Colony,
Jabalpur (M.P.)

-APPLICANTS

(By Advocate- None)

Versus

1. Union of India through
Secretary, Ministry of Defence,
Ordnance Factory Board, 10-A,
Auckland Road, Calcutta-700 001.
2. The General Manager,
Vehicle Factory, Jabalpur.
3. Shri Swapn Kumar Laha,
Junior Works Manager (Met.)
O/o General Manager, Rifle Factory,
Indian Ordnance Factory, Ishapore,
West Bengal-743144.

-RESPONDENTS

(By Advocate- Mr. B. Dasilva for
official respondents)

O R D E R

By Sarweshwar Jha, Member (Admnv.):

Heard. The applicants have approached this Tribunal seeking revision of their seniority in the posts of Assistant Foreman and Junior Works Manager and also promotion being given to them from an earlier date from which their immediate juniors have been promoted with all consequential benefits.

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2. The applicants were initially appointed to the post of Chargeman Grade-I (Metallurgist)/Technical. The seniority list of Chargemen Grade-I in the trade of Metallurgist, as brought out in April 1981, a copy of which is placed at Annexure A/1, shows the names of applicant No.1 at Sl.No.77 and applicant No.2 at Sl.No.78. The applicants were promoted to the post of Assistant Foreman (Metallurgy) with effect from 15.5.1981. The applicants have alleged that their juniors, namely, S/Shri S.K.Laha, A.K.Das, M.Agnihotri and Somnath Nan were appointed to the post of Chargeman Grade-I w.e.f. 1.3.1979, but they were promoted to the post of Junior Works Manager with effect from 30.12.1993 vide the orders of the respondents dated 14.12.1993, a copy of which is placed at Annexure A/2, while the applicants were deprived of the said promotions from the said date. The applicants submitted representations in the matter, seeking promotion to the post of Junior Works Manager before the above mentioned employees vide Annexures A-III(i) to A-III(viii). The grievance of the applicants is that the respondents have not considered their representations. The applicant No.1 has since been promoted as Junior Works Manager vide the orders of the respondents dated 24.6.1997, and applicant No.2 has also been promoted to the post of Junior Works Manager vide the orders of the respondents dated 2.8.1997, copy of these orders having been placed at Annexures A-V and A-VI respectively. The applicants have further submitted that the seniority lists of Chargeman Grade-II (T) and Chargeman Grade-I (T) have undergone revision in compliance with the directions of the Central Administrative Tribunal, Principal Bench (Full Bench) in OA No.2601/1994 and the process is

still on. Accordingly, the D.P.C. proceedings from the year 1980 to the year 1993 for promotion to the post of Assistant Foreman (Metallurgy) have been reviewed and the select list has undergone changes and subsequently ^{Let} to the revision of seniority list of Junior Works Manager (Met.). The applicants have given the details of what should have been their seniority as a result of review of the D.P.C. proceedings in their submissions at paragraph 4.8 of the Original Application and have prayed that their seniority should have been appropriately revised. The thrust of the case of the applicants is thus on the revision of their seniority in the post of Assistant Foreman and the resultant seniority in the post of Junior Works Manager (Met.).

3. The respondents have, however, questioned the maintainability of the application on the ground of limitation arguing that they should have agitated the matter in the year 1980 itself when their so-called juniors namely S/Shri S.K.Laha, A.K.Das, M.N.Agnihotri and S.Nan had been promoted to the post of Assistant Foreman on 12.2.1980, and not after a lapse of 18 years. The respondents have cited the judgement of ^{The} Hon'ble Supreme Court in the case of M.L.Cecil D'Souza Vs. Union of India (AIR 1975 SC 1269) and the orders of the Central Administrative Tribunal, Mumbai Bench, Camp at Nagpur in OA No.186/1994 and those of the Central Administrative Tribunal, Principal Bench in OA No.2183/1990 to support their contentions that this O.A. is barred by limitation, as it suffers from delay and laches. The reason why the applicants were not considered for the post of Assistant Foreman in the year 1979, despite the fact that they were senior as Chargeman Grade-I (Met.) (D.R.), was that they

had completed only three years of service in August 1980 and become eligible for consideration for the post of A.F. (Met), while the alleged juniors had become eligible for promotion as A.F. (Tech.) in the year 1979 itself, as their services as Chargeman Grade-II had also been counted for that purpose. Accordingly, the applicants were promoted as A.F. only on 15.5.1981 after they had completed three years of service. The respondents have, therefore, maintained that the promotions of the alleged juniors as well as the applicants were done strictly as per rules and they have no grievance at the relevant time of promotion. Essentially, in the opinion of the respondents the applicants had been superseded by their juniors in the year 1980 and by virtue of that they had become senior to the applicants and accordingly they got promoted to the post of Junior Works Manager earlier than the applicants. The respondents have also submitted that the applicants have not impleaded their juniors, who will be affected by the decision of this Hon'ble Tribunal and, therefore, also their application is not maintainable.

4. Shri S.K.Laha, Junior Works Manager, an alleged junior of the applicants was, however, impleaded as respondent No.3 through amendment application filed by the applicants vide M.A.No.757/1999.

5. In the rejoinder to the reply of the respondents, the applicants have submitted that Shri S.K.Laha and others were promoted as Assistant Foreman despite the fact that they had not completed three years of service. According to them, counting the services rendered as Chargeman Grade-II was not permitted under the rules

and the respondents should have annexed the relevant documents to support their contention/action. The applicants have again maintained their being senior to the respondent No.3 by virtue of their having been appointed to the post of Chargeman Grade-I through direct recruitment. They have questioned the contention of the respondents that the application is barred by limitation on the ground that they had been repeatedly submitting representations in the matter, and copies of which have been annexed to the O.A.

6. Keeping in view the facts of the case submitted by both the sides and also particularly the fact that the applicants have submitted representations to the respondents from time to time specifically mentioning that the review D.P.Cs. have met and reviewed promotions to the posts of Assistant Foreman as well as Junior Works Manager, and as a result of which the relevant select lists have undergone changes and also the seniority lists of the ^{incumbants of these} posts have undergone changes accordingly, we are of the that their representations in this regard should have been considered by the respondents and appropriate replies given to them. The same does not seem to have been done by the respondents nor is there any reference to whether any review D.P.C. meetings were held and whether the relevant select lists and relevant seniority lists underwent any changes as a result of such review D.P.C. meetings. We, therefore, find it difficult to accept the contentions of the respondents that the applicants have no merit in their case in the absence of full facts of the matter having been brought out by the respondents in their replies. That being the case,

[Signature] *AL*
(Sarveshwar Jha)
Member (Adminy.)

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पवित्राणि अग्रे दित

- (1) संविधान के अन्तर्गत राज्य सरकार के अधिकार
 - (2) राज्य सरकार के अधिकार
 - (3) राज्य सरकार के अधिकार
 - (4) राज्य सरकार के अधिकार
- सूचना एवं आवश्यक कार्यवाही हेतु

Sent S. Johnson, Adm
3. 11. 1911 - Adm

उप-सचिव

med
73.1.03
BS