

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 235 of 1999
Misc. Application No. 383 of 2000

Jabalpur, this the 11th day of February, 2004

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

1. Original Application No. 235 of 1999 -

Tirathlal, S/o. Late Daduram,
Aged 38 years, Chargeman Grade-II,
working at Ordinance Factory,
Khamaria, Jabalpur,

and 9 others.

... Applicants

(By Advocate - Shri M.K. Verma)

V e r s u s

Union of India, through
Ministry of Defence, New Delhi,

and 25 others.

... Respondents

(By Advocate - Shri Terence Burrows on behalf of Shri S.C.
Sharma for official respondents)

2. Misc. Application No. 383 of 2000 -

Shri S.N. Billore, S/o. R.S.
Billore, aged 45 years, Designation
C'Man Grd. III, Ordinance Factory
Khamaria, R/o. 14-A, Vatika Vihar,
Ranjhi, Jabalpur,

and 4 others.

... Applicants

(By Advocate - Shri M.K. Verma)

V e r s u s

Union of India, through
Secretary, Ministry of Defence,
Production, South Block,
New Delhi,

and 4 others.

... Respondents

(By Advocate - Shri Terence Burrows on behalf of Shri S.C.
Sharma)

O R D E R

By G. Shanthappa, Judicial Member:

The above OA is filed seeking the following reliefs:

- a) That, to quash the seniority list published on 27.1.1999.
- b) That direct the Respondents not to fill up the vacancies created in Chargeman Grade-I by implementing the faulty seniority list.
- c) issue suitable direction to Respondent No.2 for implementation of ... CAT, Jabalpur order passed in TA-111/1986, OA-87/86 in its true letter and spirit.

2. The brief facts of the case are that the applicants were holding the post of Supervisor 'B' from 1982-1983 onwards and in the pay scale of Rs.380-560 in Ordnance Factory, Khamaria, Ministry of Defence and presently working as Chargeman Grade-II, since 10.5.1993. The respondents were appointed as 'Tracer' during the year 1977 to 1981 in the pay scale of Rs.260-430 in Indian Ordnance Factories, Ordnance Factory Khamaria, Ministry of Defence. The respondents were promoted by the General Manager/ Ordnance Factory Khamaria to the post of Draftsman during the year 1981 to 1984 in the pay scale of Rs.330-560 in Indian Ordnance Factories, Ordnance Factory Khamaria, Min. of Defence. On the basis of the report of the Third Pay Commission, the pay scale of Draftsman employed in the Central Public Works Department (CPWD) were revised in the following manner:-

- | | |
|------------------------|------------|
| "1. Draftsman Grade-I | - 425-700 |
| 2. Draftsman Grade-II | - 330-560 |
| 3. Draftsman Grade-III | - 260-430" |

3. The said employees in the CPWD were not satisfied with the said revision and were claiming that they should have been placed on higher pay scales. This dispute was referred to a Board of Arbitration. The Board of Arbitration gave the award on June 20, 1980

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whereby the pay scale of Draftsman were revised as under:-

1. Draftsman Grade-I - 550-750
2. Draftsman Grade-II - 425-700
3. Draftsman Grade-III - 330-560

In accordance with the said award the pay scale of Draftsman in CPWD were revised vide order dated November, 10, 1980.

4. The Draftsman employed in departments other than CPWD claimed the revision of their pay scale in the light of the revision of the pay scale in the CPWD and on March, 13, 1984 vide Memorandum issued by the Ministry of Finance, whereby it was directed that the scale of pay of Draftsman Grade-III, II and I in the Office/Department of Govt. of India, other than the CPWD may be revised as per revised scales for CPWD. ~~may be revised as per revised scales for CPWD.~~ The employees of the Indian Ordnance Factories, i.e. all the Draftsmen, have filed a Writ Petition before the Hon'ble High Court of Madhya Pradesh for grant of revision of pay scale under the said OM. The said ~~writ~~ Writ Petition was transferred to this Tribunal in TA-111/86. Another OA 87/96 was filed by the some of the Draftsman before the Jabalpur Bench of this Tribunal. The said case was decided by this Tribunal on 21.4.1987. The relevant operative portion of the aforesaid order is as follows:-

"The First paragraph of the Order dated 13.3.1984 envisaged and implies a three tier set up of Draftsman Gr.I, Draftsman Gr.II and Draftsman Gr.III in the pay scale of Rs.550-750, 425-700 and 330-560 respectively. The O.F.Board has relied upon SRO 4 of 1956 which is not only outmoded but is grossly inadequate rule which is admittedly silent on requisite qualification etc. From the minutes of RM 167/FER/85 dated 13.9.1986 of O.F.Board decision filed by the Respondents it is not clear

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whether the O.F. have applied their mind to the question of review and revised SRO 4 of 1956 and creating a three tier.

The O.F. Board is directed to review the set up of Draftsman in the O.F. Organisation in the light of aforesaid Govt. of Indian orders, and observation contained in Para 12 and 13 of this Judgement. The respondents are also directed to review FRO 4 of 1956 and frame proper recruitment rules for the post of Draftsman in the light of observation contained in aforesaid paragraph of this Judgement."

(EMPHASIS SUPPLIED)

5. The Director General of Ordnance Factories (DGOFF) implemented only one direction of the Judgement passed by ~~Hon'ble Supreme Court~~ this Tribunal, accordingly, the Draftsman of Ordnance Factories were given pay scale of Rs.425-700 w.e.f. 13.5.1982 notionally but actual benefit being allowed from 1.1.1983.

6. The grievance of the applicants is that Ordnance Factory have partially implemented the orders of this Tribunal. To that effect the representatives of All India Supervisors Association for revision of SRO 4 of 1956 and creation of separate cadre for Draftsman of Ordnance Factories pursuant to Judgement of this Tribunal. The said orders of this Tribunal were challenged before the Hon'ble Supreme Court in Civil Appeal No.1433 of 1995 and connected cases. The Hon'ble Supreme Court has decided this issue and dismissed the appeals. The said Judgement of the Hon'ble Supreme Court is reported in (1995) 31 ATC 210 (Union of India & Others Vs. Devashiskar & Others. In the said judgement, the Hon'ble Supreme Court has decided the legality of the orders of this Tribunal.

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7. Subsequently, the Principal Bench of this Tribunal has decided the OA No.1047/1990 on 5.6.1997 and disposed of the same with certain observations in the light of the decision of the Hon'ble Supreme Court in Union of India & Others v. P.V.Hariharan and Others (Civil Appeal No.7127 of 1993, decided on 12.3.1997).

8. In accordance to the SRO 4 of 1956 which ^{were the} existed upto 3.5.1989, the following/feeder categories for the post of Chargeman Grade-II:

<u>"CATEGORIES</u>	<u>PAY SCALE</u>
Supervisors B (Tech)	- Rs.380-560
Planner(Tech)	- Rs.330-560
Estimator(Tech)	- Rs.330-560
Rate Fixer (Tech)	- Rs.380-560
Highly Skilled	- Rs.330-560
Draftsman	- Rs.330-560"

9. The case of the applicants in this case is that the Ordnance Factory Board authorities while publishing SRO 13 E of 1989 did not consider the directions of this Tribunal in TA-111/1986 dated 21.4.1987 and again ~~gaxtke~~ kept the Draftsman as feeder category for the purpose of Chargeman Gr.II which amounts to utter violation of the orders of this Tribunal.

10. The case of the applicant in this case also that ~~gaxtke~~ under SRO 13(E) their case has to be considered first as category of transfer and the case of the applicants that Draftsman, who got higher pay scale in pursuance to the orders of this Tribunal shall be considered for promotion as Chargeman Gr.II.

11. The applicants ~~gaxtke~~ have admitted that
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In pursuance to the orders of the Hon'ble High Court and also the orders of the Tribunal, the official respondents have published a new SRO 13-E on 4.5.1989.

12. In pursuance to the said new SRO, the official respondents have acted and implemented only one, i.e., upgradation of pay scale while upgrading the scales also they did not change the name of the post held by Draftsman as ordered by the Court:-

Existing name prior to 1982	Name/Post ordered by Hon'ble CAT, Jabalpur with higher pay scale.
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Draftsman (330 - 560)	Draftsman Gr.II (425-700)
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But O.F. Board continued the same designations of Draftsman upto 9.5.93 and on 10.5.93 transferred them to the post of Chargeman Gr.II (Tech) and on 26.10.1998 issued orders to assign them higher seniority putting them enblock senior to all supervisors whereas in the intervening period (date of Judgement of TA 111/86 dated 21.4.87, by Jabalpur, CAT to 25.10.1998 they went on assuring concerned staff association and the JCM forum that separate cadre will be formed for Draftsman)-Annexure A-8.

13. In view of the above, it is stated by the applicants that the action of the respondents is not proper, as such they have filed the above OA for seeking the directions as prayed for.

14. Per contra, the official respondents have filed their reply and contended that they have fully implemented the orders of this Tribunal and also the orders of the Hon'ble Supreme Court as referred by the applicant in the OA. The question of assigning

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the inter-se seniority to the erst while Supervisors/Technicians/Draftsman under the policy of the O.F.Board's instructions, i.e., letter No.75/Staff/A/NG dated 26.10.1998 which was agitated before the Hyderabad Bench of this Tribunal in OA No.214/1999 in Sa Niranjan Varma & others v. Union of India & Others, wherein, the said Bench vide its order dated 23.7.2001, it has been held that the assignment of inter-se seniority to the Supervisors/Draftsman (Tech.) on the basis of holding the pay scale of Rs.1400-2300 is valid. Accordingly, the private respondents were appointed on the basis of the date of appointment to Draftsman for supervisor Gr.II (Tech.), as the case may be, is in order. The down grading of the applicants in the seniority list of Chargeman Gr.II (Tech.) is, therefore, a natural process and is a result of revision of the seniority list. The main contentions of the respondents are that they have implemented the orders of the Hon'ble Supreme Court in TA-111 of 1986 is partly allowed and the OA No.87/86 is allowed as held in paragraphs 12 and 13 of the said order.

15. The Judgement dated 21.4.1987 in R.S.Tripathi was passed in favour the Draftsman in Ordnance Factory, however, the present applicants in this OA are Supervisors (Tech.). It is to be considered whether the different categories other than one in favour of whom the Judgement was originally passed can claim for implementation of such order ^{which was} not passed in their favour? It is to be considered whether under the circumstances, the present OA is misconceived and unsustainable per se?

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16. The respondents in their additional reply have submitted that both the applicants (Supervisors Gr.'B') and the private respondents (Draftsmen) were appointed by transfer to the post of Chargeman Gr.II(T) w.e.f. 10.5.1993. It is obvious that the seniority of the applicants vis-a-vis the private respondents has to be assigned on the basis of the date of holding the higher pay scale as both were appointed to Chargeman Gr.II w.e.f. the same date, i.e., ~~10.5.1993~~ 10.5.1993. This has been decided by the ~~Hyderabad~~ Bench of this Tribunal in OA No.214/99 (MA 1069/2000 & M.A.No.1070/2000) decided on 23.7.2001. It is admitted that the guidelines issued by the OFB for fixing the seniority between the applicants vis-a-vis the private respondents. Hence, the applicants are not entitled for any kind of reliefs as prayed in the OA. Accordingly, they sought dismissal of the OA.

17. After hearing the Advocate for the applicants and the respondents and after perusal of the pleadings and the Judgements cited by ~~the~~ both the parties, we have decided to decide the OA finally.

18. All the issues raised by the applicants ^{already} have been decided by different benches of this Tribunal and also by the Hon'ble Supreme Court in Union of India & Others v. Shri Debashis Kar & Ors., (1995) 31 ATC. 210.

19. In a recent Judgement delivered by the Hyderabad Bench of this Tribunal in OA No.214/99 supra, all the contentions taken by the present applicants have been considered and decided and accordingly dismissed the OA 214/99 supra.

20. The case of the applicants is that while

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considering the promotion for the post of Chargeman Gr.II, first their case shall be considered and the Draftsman who were juniors shall be considered under the transfer. Because their juniors have got higher pay scale under the orders of this Tribunal their case shall not be treated as seniors to the applicants while considering the Chrageman Gr.II.

21. In the result, for the foregoing discussion, as the applicants have failed to prove their case for grant of reliefs as prayed for, the OA is dismissed without any order as to costs.

M.A.No.383/2000 in TA No.111/86:

The said MA is filed seeking the relief for a direction to the respondents to execute the Judgement passed in TA No.111/1986 on 21.4.1987. While arguing the case, the applicants have submitted that in pursuance to the old SRO 4 of 4.1.1956, new SRO 13E of 1989 is published on 4.5.1989. We have also perused the copy of the new SRO ibid, which was filed the applicants' counsel through an MA 31/2004. Since the direction given by the Tribunal in TA No.111/86 has been substantially complied by the respondents by passing a new SRO ibid, we are of the considered view that the MA 383/2000 has become infructuous, which is accordingly disposed of as having become infructuous.

Registry is directed to enclose a copy of the Memo. of parties along with a copy of the Judgment.

G. Shanthappa
(G. SHANTHAPPA)
Judicial Member

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

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13-2-04
6:00 PM

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(1) राबि...
(2) अवेक...
(3) फवरी...
(4) फवरी...
सूचना मंत्रालय...
MA Verma
SC Sharma
Bayamda
13/2/04