

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 409/2000
Original Application No. 451/2000
Original Application No. 453/2000

Jabalpur, this the 10th day of February, 2004

Hon'ble Shri M.P.Singh, vice Chairman
Hon'ble Shri G.Shanthappa, Member (J)

OA No. 409/2000

Umesh Kumar Agarwal,
s/o Sh. D.D.Agarwal,
Chargeman Grade-II,
844, Shanti Nagar,
Damoh Nake,
Jabalpur.

...Applicant

OA No. 451/2000

Rajendra Prasad
s/o late Shri M.L.Sharma,
Chargeman Grade-II,
R/o H.No. 23, J.D.A. Colony,
Ranjhi, Jabalpur (MP).

...Applicant

OA No. 453/2000

Arun Kumar Awasthy,
s/o late Sh. G.P.Awasthy,
Chargeman Grade-III,
R/o 433, East Niwarganj,
Jabalpur (MP).

...Applicant

(By Advocate: Shri S.Paul in all the o.As)

-versus-

1. Union of India through
Secretary,
Ministry of Defence,
New Delhi.
2. The Chairman/DCOF,
Ordnance Factory Board,
10-A, Shahid Bhudiram Bese Marg,
Calcutta.
3. The General Manager,
Vehicle Factory,
Jabalpur.
4. Shri S.K.Shrivastava,
Chargeman Sr.I,
o/o General Manager,
Vehicle Factory,
Jabalpur(MP).



5. Shri G.S.Ahuja,
Chargeman Gr.I,
o/o General Manager,
Vehicle Factory,
Jabalpur.
6. Shri Jagdish Prasad,
Chargeman Gr.I,
through General Manager,
Vehicle Factory,
Jabalpur(MP).
7. Shri K.L.Patel,
Chargeman Gr.I,
o/o General Manager,
Vehicle Factory,
Jabalpur (MP). ...Respondents

(By Advocate: Shri P.Shankaran for Shri B.Pa.Silva for official respondents in all the C.As

Shri P.Shankaran for private respondents in all the C.As).

O R D E R (ORAL)

By G.Shanthappa, Judicial Member -

Since the issue involved in all the above C.As is common, facts and grounds raised as well as reliefs claimed are also identical, for the sake of convenience, these C.As are being disposed of by this common order.

2. In the above cases, the following reliefs, which are common in nature, have been sought by the applicants:-

- i) Set aside the order dated 29.3.2000 and dated 28.3.2000 Annexure A/1 and Annexure A/5;
- ii) Command the respondents to restore the seniority of the applicants over and above the private respondents as if the impugned orders are never passed;
- iii) Accordingly direct the respondents to convene a review DFC to consider the case of the applicant and accordingly consequently promote them to the post of Chargeman Gr.I w.e.f. 29.3.2000 when their juniors were promoted;
- iv) Accordingly, it be directed that in case of the applicants are found fit for such promotion as Chargeman Gr.I, they be given the promotion as Chargeman Gr.I with all consequential benefits of seniority, arrears of wages, as if they are holding the post of Chargeman Gr.I w.e.f. 29.3.2000.

3. The brief facts of the case are that the applicants while working as Machinist, the post of Draftsman was advertised. The applicants were eligible to be considered for the said post. The applicants and the private respondents were selected for the post of Draftsman in the pay scale of Rs. 330-560/- revised to Rs. 425-700/-. The applicants were holding the post ~~with~~ ^{say} ~~up~~ with utmost devotion and sincerity, consequently no adverse remarks were entered in their ACRs and no adverse remarks were communicated to them. The applicants and the private respondents were initially appointed on probation as Draftsman for two years and subsequently they were confirmed on various different dates according to completion of their probation of two years.

3.1 While working as Draftsman, the applicants and the private respondents were transferred and re-designated as Chargeman Gr.II on 10.5.1993. On 28.2.1999, seniority list was issued thereby showing the position of Chargeman Gr. II as on 10.5.1993 followed by another seniority list published on 19.12.1999 as on 10.5.1993 in which the names of the applicants have been shown at serial nos. 102, 106 and 104 respectively whereas the names of the private respondents have been shown at serial numbers 116, 118, 112 and 122 respectively.

3.2 The applicants learnt that some DPC/Selection Committee took place for considering the Chargeman Gr.II for the promotion to the post of Chargeman Gr.I before 28.3.2000. The criteria for promotion is 'Seniority-cum-suitability'. The applicants came to know vide order dated 29.3.2000 (A/1) that the private respondents have been promoted to the post of Chargeman Gr.I ignoring the rightful claim of the applicants for the said promotion. When the applicants enquired about it, they came to know on 3.4.2000 regarding the impugned order dated 28.3.2000(A/5) thereby

the seniority of the applicants and private respondents have been changed unilaterally. The revised seniority list has been published vide order dated 28.3.2000. The case of the applicants is that before issuing the said seniority list, they were not heard and in consequence thereof they submitted their respective representations. When the applicants did not receive any communication from the respondents with regard to the decision on their representations, they have approached this Tribunal by filing the above O.A.S for the aforesaid reliefs.

4. The respondents have filed their reply denying the averments made in the O.A.S. They have contended that in the seniority lists dated 28.2.1999 and 19.12.1999 the applicants were placed above the private respondents and as promotion from the post of Chargeman Gr.II to Chargeman Gr. I is entirely on seniority-cum-suitability, the order dated 29.3.2000 is in order. The applicants have intentionally withheld the fact that the seniority list was issued on 21.11.1997 and they were placed junior to the private respondents. The applicants were fully aware that all along they were below the private respondents and the seniority list of the applicants vis-a-vis the private respondents was determined on the basis of merit list prepared for appointment to the post of Draftsman. The official respondents published the seniority list on 21.11.1997 which was revised and a fresh seniority list was published on 19.12.1999 in accordance with Ordnance Factory Board's order dated 26.10.1998. The applicants were erroneously placed above the private respondents on the basis of considering the date of drawing the pay scale of Rs. 1400-2300/- ignoring the earlier position of the private respondents. The provisional seniority list annexed by the applicants was circulated with the object of inviting objections, if any, and was subjected to correction.

4.1 When the error came to light, the applicants and the private respondents have been placed in their proper position in the seniority list and in the circumstances, no supersession is taken place while carrying out promotion from the post of Chargeman Gr.II to the post of Chargeman Gr.I, as far as applicants are concerned. As such, no injustice has been caused to the applicants. The respondents have followed the Memorandum dated 4.11.1992 issued by the DCF&T in respect of maintaining the seniority of the employees.

4.2 The respondents have issued the order dated 19.4.1993 regarding promotions of highly skilled Gr. I and appointment of Supervisor (T) to Chargeman Gr.II(T) in which they have considered all the aspects regarding recruitment rules, transferees and future promotions including the seniority list, hence the respondents have not ignored the rights of the applicants rather they have corrected the mistake. As such, the applicants have no case and the OAS are liable to be dismissed. However, if the applicants submit a detailed representations in pursuance to the averments made in the O.A. mentioning the position of law, rules including the Memorandum issued by the DCF&T in this regard, the respondents will consider the same in accordance with rules.

5. We have heard the learned counsel for the parties at some length. During the course of arguments, learned counsel for the applicants made a request that the applicants may be allowed to file a detailed representation with a direction to the official respondents to dispose of the same after giving careful consideration.

6. In the facts and circumstances of the case, we allow the request of the applicants and direct them to make a detailed representation in pursuance to the reliefs sought in these CAS to the respondents within a period of two months from the date of receipt of a copy of this order.



In case the applicants comply with the above direction, the respondents are directed to consider their representation in accordance with rules, law and take a decision thereon by passing a speaking, detailed and reasoned order within a period of three months from the date of receipt of such representation(s) from the applicants.

7. With the above directions, these O.A.S are disposed of with no order as to costs.
8. Registry of this Tribunal is directed to place a copy of this order on record in the files of all the O.A.S.

(G. Shanthappa)
Judicial Member

(M.P.Singh)
Vice Chairman

/nə/

पृष्ठांकन सं. ओ/एस	.....	जलालपुर, दि.
संक्षिप्तिः	.....	.....
(१) राज्य विभाग	.....	जलालपुर
(२) विभाग	.....	जलालपुर
(३) विभाग	.....	जलालपुर
(४) विभाग	.....	जलालपुर
(५) विभाग	.....	जलालपुर
संक्षिप्तिः	.....	जलालपुर