

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

O.A.No.737/1999
with
O.A.No.772/1999

Hon'ble Sh. Sarveshwar Jha, Member (A)
Hon'ble Sh. G. Shanthappa, Member (J)

Jabalpur, this the 7th day of November, 2003

O.A.No.737/1999:

Thakur Prasad & Others ... Applicants
(As per memo. of parties)

(By Advocate: Sh. R.K.Shrivastava)

versus

Union of India & Others Respondents
(As per memo. of parties)

(By Advocate: Sh. S.C.Sharma)

with

O.A. No.772/1999:

M.Velliyan
s/o Late Muthu
Chargeman Gd.I
r/o Qr. No.3022, Type-III
Vehicle Factory
Jabalpur. ... Applicant

(By Advocate: Sh. R.K.Shrivastava)

Versus

Union of India & Others ... Respondents
(As per memo. of parties)

(By Advocate: Sh. S.C.Sharma)

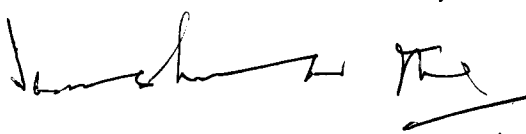
O R D E R (Oral)

By Sh. Sarveshwar Jha, Member (A):

Heard. AS the cause of action and the reliefs sought in both the OAs are identical, we hereby dispose of both the OAs by this common order.

2. The applicants have impugned ^{the} orders of the respondents (Respondent No.3) dated 20.11.1999 (Annexure A-9 in OA No.737/99 and Annexure A-7 in OA No.772/99. The applicants have been reverted

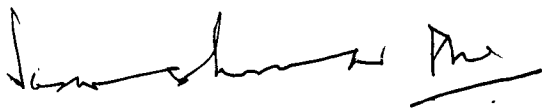
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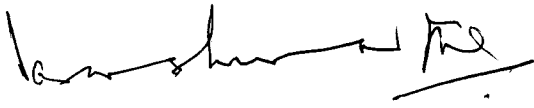
from the post of Chargeman-I(Tech/Mech) held by them against the SC quota to the post^s of Chargeman Gr.II (Tech/Mech) from the date they had been promoted as Chargeman Gr.I (Tech./Mech.) against SC quota vide VFJ Factory Order Part-II No.3555 dated 16.9.1996. It has also been stated in the said order that it may be treated as a notice for reversion for three days. The applicants have also prayed for quashing of the seniority list of Chargeman Gr.II dated 10.5.1993 (Annexure A.I) in both the OAs. They have also prayed for directions being issued to the respondents to implement the Judgement in TA-111/1986 in its entirety and true proposition propounded in it, by creating the three tier cadre system and reviewing the concerned SRO.

3. Facts of the matter, briefly, are that the applicants who were holding the post^s Supervisor from 1979/1980 onwards in the Vehicle Factory under the Ministry of Defence and who were promoted as Chargeman Gr.II in May, 1993, were placed in the seniority list of the said grade as prepared on 10.5.1993 at Sl. No.116 (Applicant No.1), Sl. No.208 (Applicant No.2) and Sl. No.270 (Applicant No.3) in OA No.737/99. Applicant in OA No.772/99 was promoted to the post of Chargeman Gr.II on 10.5.1993 and he figured at Sl. No.99 of the said list.

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4. The applicants have given a short history of how they progressed in their career so as to finally become Chargeman Gr.II and how the scales of pay of the posts held by them were revised on the recommendations of the Third Central pay Commission, with reference to the similar categories of employees in the CPWD of the Government of India. They have referred to the matter relating to the revision of the pay scale of Draftsman of the Indian Ordnance Factories as per the OM of March 13, 1984 and whereafter a Writ petition was filed in the Madhya Pradesh High Court by the Draftsmen employed in the Ordnance Factories situated in the State. While the said case was transferred to the Jabalpur Bench of this Tribunal as TA-III/86 and also as subsequently another OA No.87/96 was filed by some Draftsmen in the Jabalpur Bench of the Tribunal, both the applications were disposed of by the Jabalpur Bench of the Tribunal vide their orders on April 21, 1987. They have reproduced the relevant portion of the orders of the Tribunal under paragraph 6.8 of the OA in which, among other things, the Ordnance Factory Board was directed to review the set up of the Draftsman in the O.F. Organisation in the light of the aforesaid Government of India's order and observations contained in paragraphs 12 and 13 of the said orders. The respondents were also directed to review SRO-4 of 1956 and

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frame proper recruitment rules for the post of Draftsman in the light of the observations contained in the aforesaid paragraph of the said judgement. A copy of the judgement has been placed at Annexure A-II. While the scale of pay recommended for the Draftsmen of Ordnance Factories was given to them in compliance with the orders of the Tribunal on April 21, 1987 vide orders of the DG, OF w.e.f 13.5.1982 notionally but from 1.1.1983 actually, the Ordnance Factory Board did not initiate any administrative action to review the SRO for Draftsmen in Ordnance Factories as directed by the Tribunal in their orders dated 21.4.1987 and also as assured by the Ordnance Factory Board in JCM-III (Council) and various Associations from time to time. While the Draftsman continued to be benefited, the supervisory staff of the Ordnance Factory Organisation, who were also covered in the orders of the Tribunal, were ignored. The applicants have, therefore, alleged that the implementation of the orders of the Tribunal was only partial favouring the Draftsmen only. However, the Principal Bench of the Tribunal in OA No.1047/90 passed their orders on 5.6.1997 referring to the observations of the Hon'ble Supreme Court in a Judgement in Union of India and others v. P.V.Hariharan and others in Civil Appeal No.7127/93 dated 12.3.1997 in which it had, among other things, observed that "unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales."

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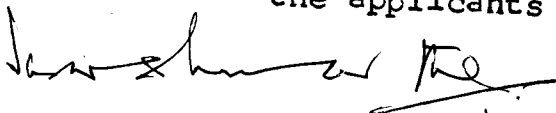
More detailed extract from the Judgement of this Tribunal in OA No.1047/90 referring to the decision of the Hon'ble Supreme Court in the above mentioned OA is given in Paragraph 6.13 which is not being reproduced to avoid repetition.

the

5. Not going to the details of history of how the matter regarding seniority list of Chargeman Gr.II got to be revised, it may be mentioned that the pay scales of Supervisor 'B'(T) and Chargeman Gr.II(T) were made identical by the Fourth Central Pay Commission w.e.f. 1.1.1986 and which led to the rationalisation of the cadre of Chargeman Gr.II and revision of seniority list of the grade as explained in paragraph 6.14 to 6.16. It was in this background that the applicants got the impugned show cause notice dated 20.11.1999, as referred to above. The applicants have contended that proposed reversion to Chargeman Gr.II without any change in the SRO nor there being any judgement or directive from any Court, is uncalled for and deserve to be set-aside by the Hon'ble Tribunal. They have also called the period of three days' notice having been given to the applicants in the said impugned notice being highly high handed on the part of the respondents.

6. We have gone through the reply of the respondents and we find that, while giving history of the promotions granted to the applicants through various Courts, they have traced the route cause for proposing reversion in the case of the applicants to the post of Chargeman Gr.II

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to the fact that they were promoted as Draftsman w.e.f. 24.3.1981 in the scale of Rs.1200-2040 which was revised to Rs.1400-2300 w.e.f. 24.3.1986 irrespective of their having fulfilled their required qualifications on completion of five years' service. As a result, when the seniority list of Charge-man Gr.II was revised and the applicants lost their seniority by a large number of positions changing also their position in the zone of consideration for promotion to the post of Chargeman Gr.I, they have to be considered for reversion to the post of Chargeman Gr.II as they ceased to fall within the zone of consideration from Chargeman Gr.II to Chargeman Gr.I from the dates they were so as per the the old seniority list. Hence the impugned notice. The respondents have given detailed replies to individual paragraphs of the OA. They have, however, not clarified as to why it was inescapable for them to have not been able to avoid reversion of the applicants from Chargeman Gr.I to Chargeman Gr.II while revising their seniority as a result of the exercise regarding restructuring and rationalising the cadre of Chargemen.

7. During the course of the oral submissions, the learned counsel for the respondents, however, made a suggestion that they would endeavour to protect the appointments of the applicants as Chargeman Gr.I, but, while so doing, as a measure of exception in the case of the applicants and not to serve as a precedent, it would not be appropriate nor feasible to revise their


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seniority. In their opinion, it would not be practicable to unsettle the seniority position, as any attempt to do this would have a very serious cascading effect on the seniority of a large number of employees.

8. We have considered the facts and background of the case and heard the learned counsel on both sides. After having perused the materials on record and after confining ourselves to the short point relating to protecting their status of appointments as held by the applicants in the posts of Chargeman Gr.I since 1996, we are of the considered opinion that, at this stage, it would be reasonable to allow the said OAs partly with directions to the respondents to reconsider the matter relating to reversion of the applicants to the posts of Chargeman Gr.II as conveyed to them vide their impugned notices dated 20.11.1999 and to ensure that they are not reverted to the posts of Chargeman Gr.II as proposed, by giving them necessary individual protection. Their seniority, as revised by the respondents, shall, however, remain undisturbed. The respondents shall dispose of this matter as directed above within a period of three months from the date of receipt of a copy of this order. No costs.


(G. SHANTHAPPA)
MEMBER (J)


(SARVESHWAR JHA)
MEMBER (A)

/rao/

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mm
19-11

पृष्ठंकल सं ओ/क्या.....जबलपुर, दि.....

कॉपी दि कागज दि...

(1) जबलपुर

(2) काउंसल

(3) काउंसल

(4) काउंसल

काउंसल कागज दि.....

RK Shrivastava
Adv.
SC Sharma, Hdn.