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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00632/2014

Order Reserved on 21.10.2015
Pronounced on 2.12.2015

...
CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)

- ...
1. Narender Singh
2. Madan Lal Sharma
3. Surender Kumar Sharma
4. Manual Danieal
5. Sukhpal
6. Devinder Kumar
7. Tejram
8. Ratan Lal
9. Ashok Kumar

Working as Offset Machine Assistant in the office of Govt. of India Press, Faridabad.

... Applicants

Versus

1. Union of India, Ministry of Urban Development and Poverty Alleviation, Nirman Bhawan, New Delhi through its Secretary.
2. The Director, Directorate of Printing, Nirman Bhawan, 'B' Wing, New Delhi.
3. The Government of India, NIT, Faridabad through its Manager.
4. Mohinder Singh
5. Vinod Kumar
6. Gopal
7. Dharambir
8. Sunder Lal

Private respondents No.4 to 8 working as Machine Assistant (Offset) in the office of Manager, Govt. of India Press, Fardabad.

... Respondents

Present: Sh. K.B. Sharma along with Sh. D.R. Sharma, counsel for the applicants.

Sh. Ram Lal Gupta, counsel for respondents no.1 to 3.

Sh. Alok Jagga, counsel for respondents no.4, 6 and 8.



ORDER

BY HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:

- "8 (i) The impugned Seniority List as on 01.01.2014 (Annexure A-1) and order dated 31.03.2013 (Annexure A-2) be quashed and set-aside in the interest of justice.
- (ii) The action of the respondents in absorbing the private respondents in the higher scale and placing them over and above the applicants in the seniority list be declared unsustainable in the eyes of law and quashed.
- (iii) The respondents be directed to place the applicants over and above the private respondents by quashing the restoration order dated 20.03.2013 of private respondents whereby the earlier office order dated 30.12.2011 passed in compliance of Tribunal Order dated 06.07.2010 and order dated 09.02.2011 passed in CP No.120/2011 reverting the private respondents (surplus employees) to their erstwhile post of Machine Assistant (LP) has been arbitrarily and illegally withdrawn.
- (iv) The applicants be held entitled for all the consequential benefits/reliefs.

2. Averment has been made in the O.A. that the applicants joined service as Attendant/Labourer and thereafter were promoted as Offset Machine Attendant in the scale of Rs.3050-4590 between the years 1992 to 2002. Private respondents entered service in Letter Press as Machine Attendant/Labourer in the pay scale of Rs.2650-4000 much after the applicants. On modernization of Govt. of India Press, Letter Press staff was declared as dying cadre and they were asked to take voluntary retirement or to be declared surplus. Vide letter dated 24.09.2007 private respondents while working in the scale of 3050-4590 were declared



surplus as Machine Assistant/LP (Annexure A-8). It is further stated that although the employees declared surplus were to be re-deployed carrying a pay scale matching their current pay scale and at the bottom in the cadre in which they were absorbed, the respondents instead of placing the private respondents as Machine Assistant in the pay scale of Rs.3050-4590 placed the private respondents in the higher scale of Rs.4000-6000.

3. It is further stated that the respondent Department framed Govt. of India Press (Group 'C' and 'D' Industrial Posts) Recruitment Rules, 2003 providing the filling up post of Offset Machine Assistant by way of promotion as well as by way of absorption/deputation against the non-selection post ~~that~~ were in their view discriminatory and violative of Articles 14 and 16 of the Constitution of India. Hence the applicants filed O.A. No.379/HR/2008 before the C.A.T. Chandigarh Bench challenging placement of private respondents in the higher scale of Rs.4000-6000 as Offset Machine Man and the Rules of 2003. Vide order dated 06.07.2010, this Tribunal quashed the provision of 2003 Rules and directed the respondents to consider the claim of the applicants for promotion to the post of Offset Machine Assistant (annexure A-6) and hence the applicants were promoted from the post of Offset Machine Attendant to the post of Offset Machine Assistant in the pay scale of PB-1 Rs.5200-20200 with G.P Rs.2400/-. Copies of some of the promotion orders are annexed (Annexure A-5). In compliance of Tribunal order dated 06.07.2010 and order dated 09.02.2011 passed in CP No.120/2011, the private

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respondents were reverted to their erstwhile post of Machine Assistant (LP) in the pay scale of PB-1 Rs.5200-20200 plus Grade Pay of Rs.1900/-. Copy of reversion order dated 30.12.2011 in respect of private respondents is annexed (Annexure A-4).

4. The applicants came to know that the private respondents no.7 and 8 had filed O.A. No.1327/HR/2012 in this Tribunal inter-alia contending that after granting pay scale and grade pay attached to the post of Offset Machine Assistant, they be absorbed on the post of Offset Machine Assistant. During the pendency of this O.A. the respondents vide order dated 20.03.2013 cancelled the reversion orders dated 30.12.2011 of private respondents (Annexure A-2) and Tribunal vide order dated 25.03.2014 remanded the matter to the respondent Deptt. to revisit the entire matter with regard to absorption of the applicants therein from the date they had completed six months training on 25.03.2007 and considering that they were having valid experience for the said post and to pass appropriate orders within a period of three months (Annexure A-3). The respondents have issued the impugned seniority list as on 01.01.2014 placing the private respondents above the present applicants in the list of Offset Machine Assistant. Private respondents have been placed at Sl No.9 to 12 and the present applicants have been placed at Sl. No.14, 16, 17 and 18 respectively (Annexure A-1). Hence this O.A.

5. In the written statement filed on behalf of respondents no.1 to 3 it has been stated that the applicants had not disclosed in the

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O.A. about the provisions of CCS (Redeployment of Surplus Staff) Rules, 1990 (Annexure R-1/1). These rules clearly lay down the criteria for the purpose of absorption of surplus staff as under:

- “(i) The surplus staff may be redeployed in the identical pay scale OR
- (ii) The surplus staff may be redeployed in 10% higher pay scale post.”

The private respondents no.4 to 8 were working as Letter Press (LP) Machine Attendant and were promoted as Machine Asstt. They were declared surplus due to modernization of Press. They were given training for Offset Machine Assistant vide order dated 24.09.2007 (Annexure A-8). After completion of their training, they were absorbed in 10% higher pay scale of the post of Offset Machine Assistant as per Rules of 1990. The Recruitment Rules, 2003 were framed wherein 100% absorption of the surplus staff was prescribed. These Rules were struck down to that extent by this Tribunal vide order dated 06.07.2010 (Annexure A-6). This Tribunal did not strike down the other mode of Recruitment, wherein the quota for Promotion/Direct Recruitment was fixed at 50:50. New Recruitment rules were notified on 16.02.2012, wherein provision was made as 67% by promotion and 33% by absorption of surplus staff/direct recruitment. This Tribunal vide order dated 06.07.2010 in O.A. No.379/HR/2008 filed by the same applicants, had directed for reframing of the Rules. Due to this reason, the competent authority had amended the rules, which were notified on 16.02.2012 (Annexure R-1/2). The

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answering respondent had passed the order dated 20.03.2013 (Annexure A-2) by taking into consideration the judgment passed by this Tribunal dated 06.07.2010, 25.03.2014 and 29.05.2014, the Recruitment Rules, 2003 and 2012 and CCS (Redeployment of Surplus Staff) Rules, 1990. So claim of the applicants had been duly considered.

6. Arguments advanced by learned counsel for the parties were heard when learned counsel for the applicants narrated the background of the matter and grounds taken in the O.A.

7. Sh. Ram Lal Gupta, learned counsel for respondents no.1 to 3 stated that office order dated 30.12.2011 (Annexure A-4) were issued after the decision of the C.A.T. Chandigarh Bench dated 09.12.2011 in O.A. No.379/HR/2008. It was realised later that nowhere in this order had direction been issued for reversion of the respondents in that O.A. and hence rectification order had been issued on 20.03.2013. Learned counsel stated that relevant rules had been misquoted in the O.A. while actual formulation reads as follows:

"5. Determination of placement:

- (1)(i) As far as possible, a surplus employee shall, subject to his suitability, be redeployed in a post carrying a pay scale matching his current pay scale.
- (ii) For the purpose of clause (i), a matching pay scale shall mean a pay scale the maximum of which is equal to that of the pay scale of the surplus employee, and the minimum of which is not higher than the basic pay (including the stagnation pay) which the surplus employee is in receipt of at the time of making his nomination.
- (2) Where a suitable vacancy in a post carrying matching scale of pay is not available, the surplus employee may be redeployed in a post carrying a non-matching pay scale:

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Provided that,-

- (i) the maximum of the pay scale of such post does not exceed the maximum of the pay scale of the surplus employee by more than 10 per cent; and
- (ii) such post is not lower than the post which forms, or would ordinarily form, the next lower rung in the promotional ladder for the incumbents of the post of the level currently held by the surplus employee:

..... "

Moreover, the respondents had been given their promotions w.e.f. the date when they completed 6 month's training in terms of the CCS (Redeployment of Surplus Staff) Rules, 1990. This was done on reconsideration of the matter as per order dated 25.03.2014 in O.A. No.1327/HR/2012 (Annexure A-3).

8. Sh. Alok Jagga, learned counsel for private respondents stated that the applicants were adjusted in Offset Technical side on 24.09.2007. They were sent for training vide letter dated 24.09.2007 (Annexure A-8) and on completion of the same on 26.03.2008, they continued to work as Machine Assistants (Offset) on officiating basis. The applicants had admittedly been promoted only in August 2012 as was evident from order dated 14.08.2012 (Annexure A-5). Learned counsel further stated that in O.A. No.379/HR/2008, the applicants had laid challenge to the absorption of the respondents as Offset Machine Assistants but this was not set aside as was evident from the perusal of the order. It was because of this that the reversion order issued on 30.12.2011 was withdrawn on 20.03.2013. The applicants continued to

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work on the Offset Press from March 2008 onwards as the Letter Press had already closed down. When the matter was remanded for reconsideration as per direction in O.A. No.1327/HR/2012, fresh order had been passed on 24.07.2014. Photocopy of one such order issued in favour of one Sh. Sunder Lal, respondent no.8 in the O.A. was produced for perusal whereby Sh. Sunder Lal was absorbed in the post of Offset Machine Assistant w.e.f. 26.03.2008 in PB-1 against the live vacancy for direct recruitment quota. He stressed that since the respondents had worked as Offset Machine Assistants from dates earlier than when the applicants were promoted as such, the seniority list of Offset Machine Assistants had been prepared correctly.

9. We have given our careful consideration to the matter. A careful reading of the material placed on record shows that the absorption of private respondents as Offset Machine Assistants took place w.e.f. March 2008 in accordance with the rules regarding employees declared surplus. Hence there is no irregularity in the impugned orders and the seniority list as on 01.01.2014 (Annexure A-1). The O.A. is dismissed as being without merit.

B. A. Aggarwal
(DR. BRAHM A. AGRAWAL)
MEMBER (J)

Place: Chandigarh.

Dated: 2.12.2015.

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(RAJWANT SANDHU)
MEMBER (A)