

Central Administrative Tribunal
Principal Bench
New Delhi

M.A.No.2069/2017
in
C.P.No.31/2017 in O.A.No.4044/2013

Order Reserved on: 17.08.2017
Order pronounced on 21.09.2017

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)

1. Madan Mohan Pandey,
S/o Shri Ganesh Dutt Pandey,
R/o C-16/12, New Type-III,
Ordnance Factory Estate Raipur,
Dehradun.

2. Vijay Kumar Upadhyay,
S/o Late Shri Ram Prasad Upadhyay,
R/o 55/2, Bhandari Bagh,
Dehradun.

3. Maddhu Sudan Prasad Godiyal,
S/o Late Shri Tota Ram Godiyal,
R/o C-243/11, Type-3,
OFD Estate Raipur,
Dehradun.

4. Rajender Prasad Pokhriyal,
S/o Shri I.D. Pokhriyal,
R/o C-317, New Type-III,
OFD Estate Raipur,
Dehradun.

5. D.R. Premi,
S/o Shri Vibhakar Premi,
R/o 40, Nadi Rispana,
Block-II, Cement Road,
Dehradun.

6. Raje Singh Rautela,
S/o Late Shri K.S. Rautela,
R/o D-21/2, Shiv Lok Colony Ladpur,
Raipur, Dehradun (U.K.).

7. Rajendra Kumar Gurung,
S/o Late Shri Nand Lal Gurung,
R/o Ranghawala Raipur,
Dehradun.

8. Surendra Kumar,
S/o Shri Raja Ram,
R/o C-29/9, New Type-III,
Ordnance Factory Estate,
Raipur, Dehradun.

9. Chotey Lal,
S/o Late Shri Amar Singh,
R/o Vill Chandebau, Yamnoutri Vihar,
Phase-II, Garhwaligaon,
Sewala Kala Dehradun.

10. Smt. Rajni Gupta,
W/o Shri Prem Nath Garg,
R/o 201, Vishnu Lok,
Tapovau,
Nanu Khera,
Raipur, Dehradun.

11. Pravin Vasant Waghmare,
S/o Shri Vasant Sankar Waghmare,
R/o At-post Wakad Tal-Mulashi,
Distt. Pune-411057 (Maharashtra).

12. Smt. Sunita Mohan Waghmare,
W/o Shri Sudan Vishram Naiknavre,
R/o 36/G, Type-I, OMR Estate Tal Haveli,
Distt Pune-412101.

13. Dattatray S. Mane,
S/o Shri Shankar M. Mane,
R/o F.9 Amey Apts., Vikas Nagar,
Kiwali Dehu Road,
Pune-412101.

14. I.G. Khan,
S/o Shri Gani MD Khan,
R/o Dasharath Landge Chawl Kashrwadi,
Pune-34.
(By Advocate : Shri Yogesh Sharma)

... Applicants

Versus

1. Sh. G. Mohan Kumar,
Secretary,
Ministry of Defence,
Department of Defence Production & Supplies,
Government of India, South Block,
New Delhi.

2. Mr. S.C. Bajpai
Director General,
Ordnance Factory Board,
10-A, Shaheed Khudiram Bose Road,
Kolkata.

... Respondents

(By Advocate : Shri Manjeet Singh Reen)

ORDER

By V. Ajay Kumar, Member (J):

In OA No.4044/2013, the applicants, 26 in number, were Blue Printers and Record Suppliers. Their next channel of promotion is to the post of Tracer and from the post of Tracer to the post of Draftsman. In the year 1997, the post of Draftsman was converted into Chargeman Grade-II (Technical) and further induction to the post of Draftsman was discontinued. Vide letter dated 25.07.2006, the posts of Draftsman and Tracer, have been deleted from SRO-14(E) of 1989. Tracers became a dying cadre. As a result, the applicants, who were Blue Printers and Record Suppliers, were deprived of their channel of promotion.

2. Some Tracers had earlier approached the Tribunal in OA No.2179/2008, **Sudarsan Pramanik & Others v. Union of India and Others**, and vide Order dated 24.04.2009, the Tribunal directed the respondents to set out the terms and conditions before a fresh

option from Tracers is taken to absorb them for the purpose of creation of promotional avenues in the industrial cadre. The respondents issued a consequential order dated 21.11.2012 stating that Tracers can be considered for promotion to the post of Chargman Grade-II till 20.04.2006, i.e., the date from which the posts of Draftsmen and Tracers have been deleted by the respondents, subject to certain eligibility criteria.

3. The applicants in OA No.4044/2013 prayed that the respondents should consider their cases also for promotion to the posts of Tracer at least till 20.04.2006 as done in case of Tracers by the respondents in terms of the Tribunal's order in **Sudarsan Pramanik** (supra). This Tribunal, after hearing both sides, disposed of the said OA, vide its Order dated 22.07.2016, as under:

"6. No doubt, an anomaly has been created wherein the applicants have been left effectively without any channel of promotion. Therefore, we dispose of this OA with the direction to the respondents to examine the possibility of creation of promotional avenues in the industrial cadre for the applicants after taking option from the applicants for absorption to such newly created posts in the industrial cadre. The above exercise should be completed within a period of three months from the receipt of a certified copy of this order. No costs."

4. CP No.31/2017, filed by 14 applicants out of the total applicants of 26 in OA No.4044/2013, was disposed of by this Tribunal by recording its satisfaction about the compliance and the said order dated 03.05.2017 reads as under:

"When the matter was taken up for hearing today, learned counsel for respondents submits that they have fully complied with the orders of this Tribunal and passed a speaking order dated 21.04.2017, copy of which has been supplied to the learned counsel for applicants along with affidavit filed by them.

2. In view of the substantial compliance of the orders of this Tribunal by the respondents, the CP is closed. Notices are discharged. However, the applicants are at liberty to avail their remedies in accordance with law, if they are still aggrieved by the orders, now passed by the respondents. No costs."

5. The Petitioners in CP No.31/2017 in OA No.4044/2013, filed the present MA No.2069/2017 seeking recalling of the Order dated 03.05.2017 under which the CP was closed.

6. It is the case of the Miscellaneous Applicants that the CP was got closed by the respondents by making wrong statements that they have complied with the orders of this Tribunal in OA No.4044/2013.

7. Heard Shri Yogesh Sharma, the learned counsel for the applicants and Shri Manjeet Singh Reen, the learned counsel for the respondents and perused the pleadings on record.

8. As observed above, the CP was closed basing on the Order dated 21.04.2017 of the respondents, and the relevant paragraphs of which, read as under:

"08. And whereas in compliance with the Hon'ble Court order dated 22.07.2016 and as per the guidelines contained in Ordnance Factory Board, Kolkata Circular Nos.Per/1/800/NIE-IE/2015-16 dated 25.05.2015 and 09.11.2015, the respondent department(s) (file different Ordnance Factories) have issued circular inviting application/options from the eligible Group 'C' NIEs employees for re-designation from NIEs to IEs (Labourer Semi/Skilled) including the petitioners. A copy of said circular(s) has also been served to the employees/petitioner and acknowledgment/receipt have also been obtained from them.

(Copy of Ordnance Factory Board circular dated 25.05.2015 & 09.11.2015 and Receipts Acknowledgment are enclosed)

09. And whereas, the re-designation to Labourer Semi/Skilled (industrial cadre) will pave the way for career progression of the petitioners.

10. And whereas, the following employees/petitioners had given their willingness/option form for re-designation from NIEs cadre to IEs cadre (Labourer Semi/Skilled).

Sl. No.	Name of employee/petitioner	Unit
01	Shri Rajendra Prasad Pokhriyal, MTS	
02	Smt. R.D.Ambatkar, MTS	

It is pertinent to mention that vide OFDun Part-II Order No.631, dated 10.04.2017, Shri Rajendra Prasad Pokhriyal, MTS has been re-designated into IEs cadre i.e. Labourer Semi/Skilled.

(Copy of Factory Order No.631, dated 10.04.2017 is enclosed)

* In Ordnance Factory, Ambajhari, there are/were 12 applicants/employees involved in the instant OA. Out of which, 06 have already been superannuated. Out of rest 06, only one applicant/employee has submitted her willingness to be redesignated.

11. And whereas the other 18 employees/petitioners did not give their willingness/consent for redesignation from NIEs cadre to IEs cadre (Labourer Semi/Skilled). One Shri M M Pandey, MRS/OFDUN vide his application dated 27.03.2017 has requested to re-designated him as Workman Semi/Skilled which is in violation of provisions of SRO 185 of 1994 pertaining to industrial cadre. In the said SRO 185, it is clearly stipulated,

"that for Workman Semi/Skilled, National Council of Trades for Vocational Training Certificate in the relevant trade failing which by ITI of equivalent Diploma/Certificate Holder,

Or

From persons in the Un-Skilled (Semi Skilled) Grade in the pay scale of Rs.750-12-870-EB-14-940 having a minimum regular service of 03 years and on passing trade test and on acquiring statutory qualifications were required."

(Copy of SRO 185/1994 is enclosed)

12. And whereas in compliance with the Hon'ble Court order, concerned factories have initiated action by taking options from the applicants of OA No.4044 of 2013 for absorption/re-designation to industrial cadre (Labourer Semi/Skilled) so as to facilitate career progression and the same is under progress at various stage.

This speaking order is issued in compliance with the Hon'ble CAT (Principal Bench), New Delhi order dated 22.07.2016."

9. A perusal of the above, indicates that the respondents have created certain promotional avenues to the applicants and on calling for options, some of the applicants have given their options, and accordingly the orders of this Tribunal have been complied with. The

creation of promotional avenues by the respondents may not be to the complete satisfaction of all the applicants in the OA but, in the aforesaid circumstances and since, admittedly, some of the applicants have agreed for the promotional avenues as created by the respondents and given their options for the same, we are of the view that the closing of the CP was not due to any misrepresentation by the respondents but on satisfaction of this Tribunal about the compliance of the orders of this Tribunal.

10. Accordingly, the MA is dismissed. No order as to costs.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)

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