



CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH

Date of Order: This the 26.02.2019

**THE HON'BLE SMTI MANJULA DAS, JUDICIAL MEMBER**  
**HON'BLE MR.N.NEHSIAL, ADMIISTRATIVE MEMBER**

**O.A.No.425 of 2013**

1. Shri Ashoke Kumar Roy, MES  
203674 S/O Late Surja Kumar Roy,  
Aged about 59 years, FGM(H/S)  
in the MES under GE(A), Kolkata No.1  
National Library Avenue,  
Kolkata-700027, residing at 596/C,  
Ananda Nath, Ichapore,  
P.O. Ichapore, Nawabganj,  
Dist 24 Parganas (N) Pin-7743144.
2. Kameshwar Singh, MES No.202994,  
S/O Shri Rajbali Singh,  
Aged about 58 years,  
working as FGM(HS) working in the MES under GE(A),  
Kolkata, 1<sup>st</sup> National Library Avenue,  
Kolkata-700027 resident of 146/10,  
MES KP Qrts 11 Line,  
Command Hospital Complex,  
Kolkata-700027.
3. Saman Lal Nandy, MES-203029,  
S/O Late Jatindra Kumar Nandy,  
aged about 58 years,  
working as FGM(HS) in the MES under GE(C),  
Kolkata, T/37, Napier Road,  
Hastings, Kolkata-700022.  
Residing at P-125/4,  
MES key Persobal Qrs,  
Ballygunge Maidan Camp,  
Kolkata-700019
4. Bipul Kumar Roy,  
S/O Late Kumud Bandhu Roy,  
aged about 55 years,

working as FGM(HS) in the MES under GE(A) Kolkata No. 1  
 National Library Avenue,  
 Kolkata-700027 resident of 49,  
 Jubilee Park,  
 P.O.Sarsuna, Kolkata-700061

5. Sri Krishna Ash,  
 S/O Late Bijoy  
 Ram Ash, aged about 60 years, last  
 Worked as FGM(HS) in the MES  
 Under GE(C) Kolkata, T/37, Napier  
 Road, Hastings, Kolkata-700022,  
 Residing at Kashipore Das Nagar  
 Howrah-5(Near Sonarghat) ..... Applicants

By Advocate: Mr.S.Bhattacharya

-And-

1. The Union of India  
 Service through the Secretary, Ministry of Defence,  
 Govt. Of India, South Block, New Delhi-110011.
2. Engineer-in-Chief  
 Army HQ, Kashmir House,  
 Integrated HQ of MOD(Army)  
 New Delhi-110011.
3. Chief Engineer, Eastern Command,  
 Military Engineer Services,  
 Fort William Kolkata-700027.
4. Garrison Engineer, Alipore  
 Military Engineer Services,  
 2, National Library Avenue, Alipore  
 Kolkata-700027
5. HQ Commander Works Engineer, Military Engineer  
 Services, No.1 National Library Avenue,  
 Alipore, Kolkata-700027 .... Respondents

By Advocate: Mr.S.K.Ghosh

*M. K. Ghosh*

**O.A.NO.701 of 2013**

1. Alok Kumar Khan  
S/O Late Santosh Kumar Khan,  
Aged 60 years, retired Joint Registrar,  
CAT, Calcutta Bench and  
Residing at Flat No.R-13, Cluster-III  
Purbachal Housing Estate, Salt Lake  
Kolkata-700097

**Applicants**

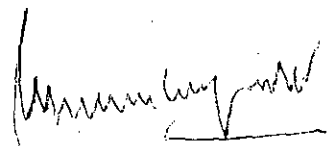
By Advocate: Mr.S.Bhattacharya

-Versus-

1. Union of India represented through the Secretary to  
Government of India,  
Department of Personnel & Training,  
Ministry of Personnel,  
Public Grievances & Pensions, North Block,  
New Delhi 110001
2. The Principal Registrar,  
Central Administrative Tribunal  
Principal Bench, New Delhi-110001.
3. The Registrar, Central Administrative Tribunal, Calcutta Bench,  
Nizam Palace, Kolkata-700020

**Respondents**

By Advocate: Mr.S.K.Ghosh,



**ORDER (ORAL)**

**Per Mr.N.NEIHSIAL;MEMBER(A):**

The reliefs sought by the present applicants are similar. Accordingly, the matter is being disposed of by this common order.

2. This O.A. has been filed by the applicants under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-"

"8.(a) Leave to file single application Under Rule 4(5)(a) of CAT (Procedure) Rule, 1987.

(b) For an order quashing the impugned Orders dated 22.02.2012 (Annexure A-11) and PTO dated 2.5.2001 (Annexure A-6).

(c) For a further order directing the Respondent No.5 to modify earlier PTO of promotion (in semi-skilled category of MPA) and to grant the applicants 1<sup>st</sup> ACP in scale 4000-6000 w.e.f. 9.8.1999 and 2<sup>nd</sup> ACP in scale Rs.5000-8000 on respective completion of 24 years, as has been ordered in the case of employees in Delhi Zone and Bathinda Mil.Station under Western Command(Annexure A-7) and at Panagarh Unit under CWE Kalaikunda (A/F) (Annexure A-9)."

*[Handwritten signature]*

3. Heard Mr.S.Bhattacharya, learned counsel for the applicants perused the pleadings and materials placed before us.

4. Learned counsel for the applicants submitted that all the 5 applicants have been appointed as civilian in Defence Services and posted in the Military Engineer Services (MES). The Applicant No.1 was initially appointed as Mazdoor on 2.8.1974. Applicants No.2, 3 4 and 5 were initially appointed as Chowkidar on 15.9.1976, 13.9.1976, 14.9.1976 and 14.9.1976 respectively. The posts of Mazdoor and Chowkidar in Group 'D' category were unskilled posts with pay-scale of Rs.196-232/- which was revised from time to time and in 5<sup>th</sup> CPC came to be in the scale of Rs.2550-3200/-.

5. This is second round of litigation. The applicants are asking for the benefits of 1<sup>st</sup> and 2<sup>nd</sup> ACP on the basis of the reclassification of the post of Motor Pump Attendant (MPA) as per order dated 20.10.1982 in respect of place and date of promotion. In the previous O.A., the Hon'ble Bench of

*W. S. Srinivasan*

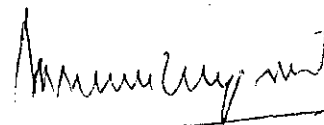
Calcutta had passed an order in O.A.No.21 of 2009 dated 09.8.2011 with the following directions:-

" The applicant is pressing his claim on the ground of discrimination. The question that arises is regarding the scope of 1981 orders and as to whether such designation amounts to direct recruitment or promotion. All these circulars are not on record of this O.A. Orders extending such benefits are already on record.

" We think that the ends of justice shall be made if we direct the respondents No.2 to issue a clear order on the subject within 2 months of the receipt of the order. The Controlling Officer of the applicants shall in the light of such clarification issue further orders within one month thereafter. We wish to make it clear that we have expressed no opinion on the merits of the case. Arrears, if any, to be paid in two further months."

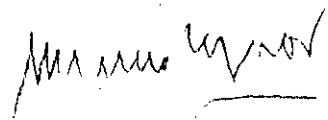
The O.A. stands disposed of. No order as to costs."

6. However, the respondent authorities passed the speaking order No.7133/DKM/18/EI(Legal) dated 22.02.2012 rejecting the claim of the applicants. The speaking order was issued by CWE, Calcutta instead of the Respondent No.2 as directed by the Hon'ble CAT, Calcutta Bench. Aggrieved with this contents of the order and also incompetency of the authority, who issued the speaking order without leave of the Court and also without any



indication in the speaking order as to whether the authority who has issued the speaking order has received any direction from the respondent No.2.

7. We have gone through the records and submissions made by the applicants. Since, it is a matter of discrimination as alleged by the applicants, wherein the benefits as claimed by the applicants have been already granted to the similarly situated persons by Headquarters, Chief Engineer, Delhi Zone under Western Command and CWE (Air Force) Kalaikunda, it is appropriate that the Respondent No.2, that i.e Engineer-in-Chief, Army HQ, Kashmir House, New Delhi examine the issue and pass detail speaking order as directed earlier. Accordingly, we direct that the Respondent No.2 to re-examine the issue in detail and pass a detail speaking order within a period of 2 months from the date of receipt of this order. It is made clear that no order shall be passed by any authority lower than the Respondent No.2 in this regard. Accordingly,



speaking order No.7133/DKM/18/EI(Legal) dated 22.02.2012  
is hereby quashed.

8. To the above extent, the O.A. is disposed of. There  
will be no order as to costs.

(N.NEHSIAL)  
MEMBER(A)

(MANJULA DAS)  
MEMBER(J)

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