

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/848/2011

Jabalpur, this Thursday, the 26th day of September, 2019

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

1. Umashankar Singh, aged about 45 years S/o Shri Rajbahadur Singh, Chageman, II(T) Personal No.Electrical/842581/EM Ordinance Factory, Katni (M.P.) PIN 483504

2. Ashutosh Kurariya aged about 44 years S/o Shri Bhagwandas ji Kurariya, Electrician Highly Skilled I Personal No.49/EM/2584 Ordinance Factory Katni (M.P.) PIN 483504
-Applicants

(By Advocate –**Smt. Smita Verma**)

V e r s u s

1. The Union of India, Through the Secretary/Ministry of Defence, South Block New Delhi PIN 110001 India

2. Chairman & Director General Ordinance Factory Board, Ayudh Bhawan 10-A S.K. Bose Road Kolkata PIN 700001 West Bengal India

3. The General Manager, Ordinance Factory Katni (M.P.) PIN 483504

4. Sanjay Pandey, Chageman II (T) Personal No.Electrical (Electronics)/842579/EM Ordinance Factory Katni (M.P.) PIN 483504

5. Sudhir Kumar Shukla, Chargeman II (T) Personal No.Electrical Electronics)/842582/EM Ordinance Factory Katni (M.P.) PIN 483504

6. U.K. Vishwakarma Chargeman II (T) Personal No.Electrical Electronics)/842559/EM Ordinance Factory Katni (M.P.) PIN 483504 - **Respondents**

(By Advocate –**Shri S.K. Mishra for respondents Nos.1 & 3, Shri S.D. Gupta for private respondents No.4 to 6)**

(Date of reserving the order:- 04.01.2019)

ORDER

By Navin Tandon, AM:-

The applicants have sought for the following reliefs in this Original Application:-

“8.i The Hon’ble Tribunal may kindly be pleased to issue a writ, order or direction in the nature of Certiorari quashing the order of promotion of the private respondents as Charge-man II in the electrical Trade.

8.ii The Hon’ble Tribunal may kindly be pleased to issued a writ, order or direction in the nature of Mandamus, directing the respondent No.3 to assign the correct seniority to the Applicant No.1 in the seniority list of Charge-man-II after the cancellation of the promotion of the private respondents.

8.iii The Hon’ble Tribunal may kindly be pleased to issue a writ, order or direction in the nature of Mandamus, directing the respondent No.3 to consider the Applicant No.2 for his promotion to the post of Charge-man II falling vacant after the

cancellation of the promotion of the private respondents.

8.iv Any other relief, for which the applicants have not made any specific prayer but the Hon'ble Tribunal deems fit and proper to grant in the facts and circumstances of the case, may also be granted."

2. Brief undisputed facts of the case are as under:-

2.1 Official respondents issued order dated 28.05.2007

(Annexure A/3) through which Fitter (Electronics) were to be considered for promotion to Chargeman-II (Tech./Electrical) instead of Chargeman-II (Tech./Mechanical).

2.2 This order was challenged by applicant No.1 and others in O.A. 832/2007 in this Tribunal as well at other Benches of this Tribunal. Our coordinate Bench at Madras allowed the O.A. No.638/2007, 177 and 57/2008 on 13.02.2009 (Annexure A-5B). Reiterating the operative part of the order of Madras Bench, this Tribunal also allowed the O.A. No.832/2007 on 31.08.2009 (Annexure A-5A) and the order dated 28.05.2007 (Annexure A/3) and 14.06.2007 were set aside.

2.3 Consequently, official respondents vide their communication dated 25.01.2010 (Annexure A-6) cancelled and withdrew their notification dated 28.05.2007 and stated that Fitter (Electronics) will be the feeder trade for promotion to Chargeman (Tech./Mechanical), as was circulated vide OFB letter dated 30.08.2005.

2.4 However, respondents communicated vide their letter dated 16.03.2010 (Annexure A/8) that contents of 25.01.2010 (Annexure A/6) shall guide current and future promotion. Past cases were not to be reopened.

3. Case of the applicants is that subsequent to judicial pronouncements that Fitter (Electronics) cannot be promoted to Chargeman-II (Tech./Electrical), the private respondents should have been reverted and suitable Fitter (Electrical) should have been promoted.

4. Official respondents have given the background history that order dated 28.05.2007 (Annexure A/3) was issued after receiving the recommendations of a sub committee consisting of representatives of all three

recognized federations of employees, NGO Association and official side.

5. Private respondents have stated that they are not occupying posts of Chargeman II (Tech/Electrical). They are on posts of Chargeman II (Tech/Electronics) which has been merged with Chargeman II (Tech/Electrical) Cadre. They have attached recruitment notices of 1996 and 2001 to buttress their point.

5.1 This assertion of private respondents have been controverted by the applicants in their rejoinder.

5.2 It is also seen that no portion of the reply of official respondents corroborates the claim of the private respondents.

6. Heard the argument of learned counsel of all the parties and pleadings available on file. The arguments were on the lines of the written submissions.

6.1 Learned counsel for the applicants brought our attention to order dated 21.04.2014 passed by Madras

Bench of this Tribunal in O.A. No.346/2011 on the subject.

7. Our coordinate Bench at Madras has held as under in O.A. No.346/2011:-

“8.We are of the considered view that in the light of the orders of this Tribunal dated 13.02.2009 in the above mentioned OAs and in the light of the instructions contained in the consequential order dated 25.1.2010 issued by the Ordinance Factory Board, the promotions granted to party respondents No.4 to 9 are liable to be reviewed. The instructions contained in order dated 16.03.2010 would not offer any protection to the promotions granted to the party respondents as these promotions have been ordered during pendency of the above mentioned OAs challenging the grouping of Fitter Electronics Trade with the Electrical Trade and hence to that extent, the impugned order dated 16.3.2010 is liable to be set aside and we order accordingly.

9. Consequently the promotions granted to the party respondents 4 to 9 based on the combined seniority list of Electronics and Electrical Trade are also liable to be reviewed as the party respondents would not be entitled to be continued as Chargeman (T) Electrical in the light of the above orders. However, considering the lapse of time and considering the fact that it is almost six years since the party respondents 4 to 9 have been promoted to the cadre of Chargeman and considering that they were not party to the O.A., it would be harsh to set aside their promotion altogether. Further the Hon'ble High Court of Madras had permitted withdrawal of WPs filed by them presumably on the

understanding that their promotions would not be in jeopardy and hence we are of the considered view that setting aside their promotion at this juncture would not serve the interest of justice particularly when it is not clear whether promotions were granted to the party respondents 4 to 9 overlooking the claims of the applicants in the present OA based on inter se seniority. Hence we are of the considered view that liberty should be granted to the official respondents to adjust the promotions granted to the party respondents 4 to 9 as Chargeman Grade II in the Mechanical Discipline as per instructions contained in the Ordnance Factory Board letter dated 25.1.2010 dealing with the claims relating to inter se seniority in the Mechanical Discipline in accordance with the rules applicable. The official respondents shall deal with the case of the applicants in the present OA for promotion to the post of Chargeman Grade II (Tech/Elec.) subject to the fulfillment of necessary qualification and based on their inter se seniority position in the feeder trade, in the resultant vacancies in the Chargeman (T) Electrical cadre.”

8. Similar case, as stated in Para 8 of Madras Bench order above, exists in this Bench of the Tribunal where O.A. No.832/2007 was pending and the order of official respondents dated 28.05.2007 was set aside.

9. We feel that ends of justice will be met if orders of Madras Bench of the Tribunal, as detailed in Para 7 above, are also followed by official respondents in present case.

10. The Original Application is accordingly allowed.

The respondents are directed to implement the same in 90 days from the date of receipt of certified copy of this order.

No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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