

LIBRARY

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH**

O.A. No. 350/00142/2013  
M.A. No. 350/00199/2015  
O.A. No. 350/01136/2011  
O.A. No. 350/00596/2012  
O.A. No. 350/00482/2013  
O.A. No. 350/00147/2014

Date of Order: 27.02.2019

Present: **THE HON'BLE SMT. MANJULA DAS, MEMBER (A)**  
**THE HON'BLE MR. NEKKHOMANG NEHSIAL, ADMINISTRATIVE (A)**

**O.A. No. 350/00142/2013 :**

- (1) Anil Kumar Sarkar  
Son of Late Abani Kumar Sarkar  
Aged about 73 years and residing  
At Flat No. 401, Nilima Apartment, 183  
S.K. Deb Road Chowdhury Bagan, Kolkata – 700048.
2. Deba Prasad Basu  
Son of late Sasthibar Basu  
Aged about 71 years and  
Residing at Vibekananda Road  
(Opposite Vibekananda Bidya Mandir)  
Barasat, Kolkata – 700124.
3. Pratul Kumar Chakravorty  
Son of Late Jagatbandhu Chakraborty  
Aged about 69 years and residing at  
374/1A, P.K. Guha Road, Kolkata – 700028.
4. Gopal Chandra Roy  
Son of Late Srish Chandra Roy  
Aged about 66 years and residing at  
G-18/1, Karunamoyee Housing  
Salt Lake, Kolkata – 700091.
5. Sitalmoy Chaudhuri  
Son of Late Anil Gopal Chaudhuri  
Aged 66 years and residing at 18/3

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Kumud Ghoshal Road, GKC Towers  
Block-B, 3<sup>rd</sup> Floor, P.O. – Ariadaha  
Kolkata – 700057.

6. Ajay Kumar Chattopadhyay  
Son of Late Amulya Krishna Chattopadhyay  
Aged about 69 years and residing at Arati Apartment  
74, Rastroguru Avenue, Dum Dum  
Clive House, Kolkata – 700028.
7. Mihir Kumar Sanyal  
Son of Late Dhirendranath Sanyal  
Aged about 70 years and residing at 27  
Debiniwas Road, Kolkata – 700074.
8. Shakti Sawarup Sharma  
Son of Late Bhagat Ram Sharma  
Aged about 67 years and residing at B-22  
Parijat Apartment, Western Clave  
Pritampura, New Delhi – 110034.
9. Amal Krishna Choudhury  
Son of Late Kishori Mohan Chowdhury  
Aged about 67 years and residing at  
Basantitola, Kanthal Pally, Chakdaha  
Pin – 741222, Dist – Nadia (W.B.).
10. Pratap Bhanu Singh  
Son of Jangi Singh  
Aged about 73 years and residing  
At Rashtra Bharti Inter College Street  
Kalyanpur (West), Ring Road  
Lucknow – 226022, U.P.
11. Sarabjit Singh  
Son of Sri Prem Singh  
Aged about 65 years and residing at 395  
'B' Block, Panki, Kanpur – 208020, U.P.
12. Gopal Ji Asthana  
Son of Late Krishna Bihari Lall Asthana  
Aged about 66 years and residing at 44  
HIG, 'B' Block, Panki, Kanpur – 208020  
Uttar Pradesh.

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13. **Samar Kumar Ghosh**  
Son of Late Sibdas Ghosh  
Aged about 69 years and residing  
At 424/B, 'B' Block – B, P.O. – Panki  
Kanpur – 208020, U.P. FGK.
14. **Prem Kishore Pastore**  
Son of Late Hit Kishore Pastore  
Aged about 69 years and residing at 191/4  
Swaraj Nagar, P.O. – Panki  
Kanpur – 208020, U.P.
15. **Rama Kant Misra**  
Son of Late Ram Baksh Misra  
Aged about 66 years and  
Residing at MIG-17OB, Block – 'B'  
P.O. – Panki, Kanpur – 208020, U.P., SAF.
16. **Himadri Sekhar Ghosh**  
Son of Late Nikunja Ranjan Ghosh  
Aged about 68 years  
Permanently residing at C-17/5, EKTP Phase IV  
Manjulika – 'A', Kolkata – 700017  
Presently residing at B-6/370  
Second Floor, Chitrakoot, Sector – 06  
Jaipur – 302021, Rajasthan, GCF.
17. XXXXXXXXXXXX
18. **Pronoy Kumar Bhattacharya**  
Son of late Benoy Bhusan Bhattacharya  
Aged about 69 years, and residing at 37  
Indrani park, Flat No. 1, Tollygunj  
Kolkata – 700033.

-All the aforesaid applicants are at present retired employees having their Head Quarters at Ordnance Factory Board of 10A, Shahid Kshudiram Bose Road, Kolkata – 700001, from where the relevant parent order for implementation, impugned or not, have been issued.

...Applicants

-Versus-

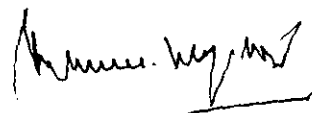
*Manish kumar*

1. **Union of India**, through the Secretary  
Ministry of Defence, Govt. of India  
Dept. of Defence Production & Supplies  
South Block, New Delhi - 110001.
2. Director General of Ordnance Factories and Chairman  
Ordnance Factory Board, 10A, Shaheed Khudiram  
Bose Road, Kolkata - 700001.
3. General Manager, Ordnance Factory  
Dum Dum, Jessore Road, Kolkata - 700028.
4. General Manager, Rifle Factory  
Ichapore, P.O. - Ichapore Nawabgunj  
Pin - 743 144, North 24 Parganas.
5. General Manager, Metal & Steel Factory  
Ichapore, P.O. - Ichapore, Nawabgunj  
Pin - 743 144, North 24 Parganas.
6. General Manager, Gun & Shell Factory  
Cossipore, Kolkata - 700002.
7. General Manager, Small Arms Factory  
Kanpur - 208009, U.P.
8. General Manager, Field Gun Factory  
Kanpur - 208009, U.P.
9. General Manager, Ordnance Factory  
Kanpur - 208009, U.P.
10. General Manager, Ordnance Factory  
Muradnagar - 201206, U.P.
11. General Manager, Gun Carriage Factory  
Jabalpur - 482011, Madhya Pradesh.
12. General Manager, Vehicles Factory, Jabalpur  
Pin - 482009, M.P., Madhya Pradesh.

**...Respondents**

For the Applicants : Mr. B.R. Das & Mr. N. Roy

For the Respondents : Mr. L.K. Chatterjee & Mr. S.K. Ghosh



**M.A. NO. 350/00199/2015 (O.A. NO. 350/00142/2013)**

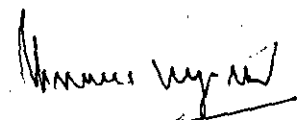
1. Sabita Kar, widow of Late Manoranjan Kar  
Aged about 66 years, house wife and residing at  
120/11, J.K. COLONY, JAJMAU, Shiwans Tenray  
Shiwans Tanney Bilhaur Kanpur Nagar, UP – 208010.
2. Indranil Kar, son of Late Manoranjan Kar  
Aged about 44 years, residing at  
120/11, J.K. COLONY, JAJMAU, Shiwans Tenray  
Shiwans Tanney Bilhaur Kanpur Nagar, UP – 208010.

**...Petitioners****-Versus-**

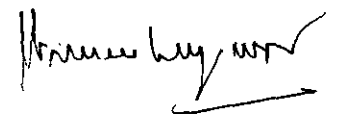
1. Union of India, through the Secretary  
Ministry of Defence, Department of Defence Production  
& Supplies, South Block, New Delhi – 110001.
2. Chairman & Director General of Ordnance Factories  
10A, Sahid Khudiram Bose Road, Kolkata – 700001.
3. General Manager, Ordnance Equipment Factory  
Kanpur – 208009, U.P. & 8 Others.

**...Respondents.****O.A. NO. 350/01136/2011**

1. Asim Kumar Dan  
Son of Late Dolgobinda Dan  
Aged about 70 years and  
Residing at Flat No. 10, 100/1A  
Sreerampur (North), Garia, Kolkata – 700084.
2. Asish Kumar Pal  
Son of Late Upananda Paul  
Aged about 67 years and residing at Kajipara Road  
Nayabapli, P.O. – Barrackpore, Kolkata – 700120.
3. Akhileswar Das, son of Late Hara Prasanna Das  
Aged about 70 years and residing at New Garia Dev.  
Co-operative Housing Society Ltd., Kolkata – 700094.



4. Arun Kumar Banerjee, son of Late S.N. Banerjee  
Aged about 66 years and residing at B-90  
New Garia Dev, Co-operative Housing Society Ltd.  
Kolkata - 700094.
5. Kajal Kanti Chakrabarti, Son of Late Durgamohan Chakrabarti  
Aged about 70 years and residing at Parbati Complex  
2/6, Ghoshpara Road, Badamtala, P.O. - Bengal Enamel  
Dist - 24 Parganas (North), Pin - 743 122.
6. Ranjit Kumar Mukhopadhyaya  
Son of Late Pramatha Nath Mukhopadhyaya  
Aged about 70 years, residing at 21/11  
Raypara Lane, P.O. - Konnagar, Pin - 712235.
7. Samarendra Lala Haldar  
Son of Late Rajendra Lal Haldar  
Aged about 72 years, residing at 1/26A  
Naskarpara Lane, P.O. - Dhakuria, Kolkata - 700031.
8. Satyendra Nath Mukhopadhyaya  
Son of Late Sarasi Chandra Mukhopadhyaya  
Aged about 68 years and residing at Flat 2A  
II Floor, Port Centre, 32/1, Port Blair Lane  
Barrackpore, Kolkata - 700120.
9. Dibyendu Pakrashi  
Son of Late Shiba Prasad Pakrashi  
Aged about 66 years and residing at 153/1  
Prince Golam Hossain Shah Road, Jadavpur  
Kolkata - 700032.
10. Tarun Kumar Bose  
Son of Late Satyendra Nath Bose  
Aged about 69 years and residing at TG-2/23A  
Kolupukur, Tegharia, Kolkata - 700059.
11. Biman Baran Chakraborty  
Son of Late Brojendra Nath Chakraborty  
Aged about 66 years and residing at 20J  
Flat No. 3C, 20 J, Kalicharan Dutta Road  
Behala, Kolkata - 700061.
12. Bijoy Krishna Roy  
Son of Late Radha Charan Roy

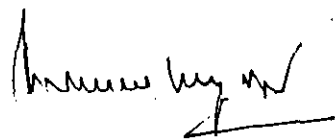


Aged about 71 years and residing at 24/117  
Jessore Road No. 1, Airport Gate  
Dum Dum, Kolkata – 700028.

13. Santi Bhushan Saha  
Son of Late Raicharan Saha  
Aged about 71 years, and residing 12, Shyamashree  
Pally Road, P.O. Nona Chandanpukur  
Dist – 24-Parganas (North), Kolkata – 700122.
14. Sudhangsu Sekhar Nag  
Son of Late Upendra Nag  
Aged about 69 years and residing at Jayashree  
Apartment, E/17, Jayashree Park, Behala  
Kolkata – 700034.
15. Kanailal Sarkar, S/o Late Suresh Chandra Sarkar  
Aged about 71 years and residing at Tantipara  
P.O. – Mrigala Denkuni, Hooghly – 712311.
16. Himadri Narayan Basu  
Son of Late Keshab Narayan Basu  
Aged about 70 years and residing at – Debi Nibas Rd  
P.O. – Motijheel, Kolkata – 700074.
17. Animesh Bandopadhyay  
Son of late Suresh Chandra Bandopadhyay  
Aged about 67 years and residing at – Lake Plaza  
Flat 2, 1<sup>st</sup> Floor, 123, Santoshpur Avenue, Kolkata – 700075.
18. Samar Kanti Ghosh  
Son of Late Amaresh Chandra Ghosh  
Aged about 70 years and residing at  
615-B, Lake Garden, 3<sup>rd</sup> Floor, Kolkata – 700045.
19. Ananda Mohon Sarkar  
Son of Late Rabindra Nath Sarkar  
Aged about 71 years, and residing at 239/1  
Netaji Subhash Road, Behala, Kolkata – 700034.
20. Sankar Chakravarti  
Son of Late Ananta Kumar Chakravarti  
Aged about 71 years and residing at 70  
Debendra Nath Ghosh Road, Kolkata – 700025.

*Manu Singh, MD*

21. Soumendra Kumar Roy  
Son of Late D.L. Roy, aged about 68 years  
Residing at 700, Bachaar Para Road  
Sabuj Park, P.O. – Thakurpukur, Kolkata – 700063.
22. Rajat Kumar Sen  
Son of Late Surendra Nath Sen  
Aged about 65 years, residing at Debinihas Road  
Dum Dum, Kolkata – 700074.
23. Sukumar Biswas  
Son of Late Santimay Biswas  
Aged about 69 years and residing at A-104  
Brahmapur South, Garia, Kolkata – 700096.
24. Nirabendra Mukherjee  
Son of Late Hirendra Nath Mukherjee  
Aged about 66 years and residing at Ideal School Road  
Bandipur, P.O. – Rahara, 24-Parganas (North)  
Kolkata – 700118.
25. Sunil Kumar Bandopadhyaya  
Son of Late Nani Gopal Bandopadhyaya  
Aged about 67 years and residing at Kalyan Nagar  
Battala, Rahara, Khardah, Kolkata – 700112.
26. Dipak Kumar Basu  
Son of Late Prakash Chandra Basu  
Aged about 69 years and residing at 267  
Stand Road, P.O. – Ichapur, Nawabgunj  
24-Parganas (North), Pin – 743144.
27. Priyadarshi Barua  
Son of Late Surendra Barua  
Aged about 72 years and residing at 75  
Southend Garden, Garia, Kolkata – 700084.
28. Samir Kumar Guha  
Son of Late Subodh Chandra Guha  
Aged about 68 years and residing at Dheeja Sagar  
Building No. 1, 28 Link Road, Malad West  
Mumbai – 400064.
29. (i) Smti. Manjula Mitra  
W/o Late Pradip Kumar Mitra





- (ii) Debasish Mitra  
Son of Late Pradip Kumar Mitra

Residing at Manasatala Majherpara  
P.O. - Ishapore, Dist - 24-Parganas (North).

30. Shyamal Kumar Sil  
Son of Late Lakshmi Narain Sil  
Aged about 65 years and residing at C-36  
Bijohnagar, Estn. Ranjhir, Jabalpur, M.P. - 482005.
31. Samar Kumar Ghosh  
Son of Late Saat Indu Ghosh  
Aged about 67 years and residing at Vidyasagar Sarani  
Bally, Ghoshpara (W.B.), Pin - 711227.

- All the aforesaid applicants are at present retired employees having their Head Quarters situated at 10A, Saheed Kshudiram Bose Road, Kolkata - 700001.

...Applicants

-Versus-

1. Union of India  
Through Secretary, Ministry of Defence  
Department of Defence Production and Supplies  
South Block, New Delhi - 110001.
2. Chairman & Director General  
Ordnance Factories, 10A, Sahid Khudiram Bose Road  
Kolkata - 700001.
3. General Manager, Ordnance Factory  
Itarsi, M.P. - 461112.
4. General Manager, Rifle Factory  
Ichapur, P.O. - Ichapur Nawabganj  
District - North 24-Parganas.
5. General Manager, Small Arms Factory  
Kanpur, U.P. - 208009.
6. General Manager, Metal & Steel Factory  
Ichapur, Pin - 743144, 24-Parganas (North).

*Amrinder Singh*

7. General Manager, Gun & Shell Factory  
Cossipore, Kolkata – 700002.
8. General Manager, Ordnance Factory  
Dum Dum, Kolkata.
9. Senior General Manager  
Gun Carriage Factory, Jabalpur  
Pin – 482011.

...Respondents

For the Applicants : Mr. B.R. Das & Mr. N. Roy  
For the Respondents : Mr. L.K. Chatterjee & Mr. S.K. Ghosh

**O.A. NO. 350/00596/2012**

1. Arun Kumar Nag  
Son of Late Ashutosh Nag  
Aged about 73 years and residing at 32/15  
Chandi Ghosh Roadh, Kolkata – 700040.
2. Bhaskar Chandra Banerjee  
Son of Late K.C. Banerjee  
Aged about 74 years and residing at Uttarpara  
Housing Complex, Flat No. C-11-G (Verma Flats)  
35, Lowrence Street, P.O. – Uttarpara  
District – Hooghly, Pin – 712258.
3. Mahadeb Das  
Son of Late Hara Prasanna Das  
Aged about 70 years and residing at 16/1  
Boys' School Road, Nabapally  
Barasat, Kolkata – 700126.
4. Suprakash Bhattacharyya  
Son of Late Sukumar Bhattacharyya  
Aged about 72 years, Residing at 206  
Lake Town, Block – 'A', Kolkata – 700089.
5. Manash Kumar Moitra  
Son of Late Sailesh Chandra Moitra  
Aged about 70 years and residing at B-89  
Jay Jayanti Sarani, Sector – 2C, Bidhan Nagar, Durgapur – 12.

*Manish Kumar Moitra*

All the aforesaid applicants are at present retired employees having their Head Quarters situated at 10A, Saheed Kshudiram Bose Road, Kolkata-700001.

**...Respondents**

-Versus-

1. Union of India  
Through Secretary, Ministry of Defence  
Department of Defence Production and Supplies  
South Block, New Delhi – 110001.
2. Chairman & Director General  
Ordnance Factories, 10A, Sahid Khudiram Bose Road  
Kolkata – 700001.
3. General Manager, Rifle Factory  
Ichapur, P.O. – Ichapur Nawabganj  
District – North 24-Parganas, Pin – 743144.
4. General Manager  
Metal & Steel Factory, Ichapur  
Pin – 743 144, District – North 24-Parganas.
5. General Manager  
Gun & Shell Factory, Cossipore  
Kolkata – 700002.

**...Respondents**

For the Applicants : Mr. B.R. Das & Mr. N. Roy

For the Respondents : Mr. L.K. Chatterjee & Mr. S.K. Ghosh

**O.A. NO. 350/00482/2013**

1. Arun Kumar Ghosh  
Son of Late Sudhangsu Kumar Ghosh  
Aged about 71 years and residing at G-204  
Baishnabgata Patuli Township  
Kolkata – 700094.
2. Kantilal Sengupta  
Son of Late Prafulla Kr. Sengupta

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Aged about 68 years and residing at 39/1  
Durgabari Road, Sarkarpukur East  
New Barrackpur, Pin – 700131, North 24-Parganas.

3. Amareswar Sarkar  
Son of Late Harish Chandra Sarkar  
Aged about 68 years and residing at 93  
Mata Monomohini Nagar, Bonhooghly  
Kolkata – 700108.
4. Debabrata Bose  
Son of Late Pramatha Ranjan Bose  
Aged about 66 years and residing at 235  
Ashokgarh, Kolkata – 700108.
5. Prasanta Kumar Basak  
Son of Late Gopal Ballav Basak  
Aged about 71 years and residing at 149 B- Block  
Bangur Avenue, Kolkata – 700055.
6. Ajay Kumar Ghosh  
Son of late Surya Kumar Ghosh  
Aged about 68 years and residing at 1/21  
Olai Chandi Road, Kolkata – 700037.
7. Prasanta Kumar Baksi  
Son of Late Sachidananda Baksi  
Aged about 68 years and residing at Nandan kanan  
Dankuni, Pin – 712311, District – Hooghly.
8. Jayanta Kumar Mitra  
Son of Late Sudananda Mitra  
Aged about 69 years and residing at 3/2C  
Kali Charan Sett Lane, Kolkata – 700030.
9. Saiyad Mahammadullah  
Son of Late S.M. Akhter  
Aged about 70 years and residing at  
17/1, Joy Kulla Nulla Road, Kolkata – 700063.
10. Bindumadhab Hajra  
Son of Late Radhshyam Hajre  
Aged about 68 years and residing at 95/2/2  
Abinash Banerjee Lane, Shibpur, Howrah – 711102.

...Applicants

*[Handwritten Signature]*

-Versus-

1. Union of India  
Through the Secretary, Ministry of Defence  
Government of India  
Department of Defence production & Supplies  
South Block, New Delhi – 110001.
2. Director General of Ordnance Factories and  
Chairman, Ordnance Factory Board  
10A, Shaheed Khudiram Bose Road  
Kolkata – 700001.
3. General Manager, Rifle Factory  
Ichapore, P.O. – Ichapore Nawabgunj  
Pin – 743144, North 24-Parganas.
4. General Manager Ordnance Factory  
Badmal, Orissa, Pin – 767070.
5. General Manager, Ordnance Factory  
Khamoria, Jabalpur – 482009, M.P.
6. General Manager, Gun & Shell Factory  
Cossipore, Kolkata – 700002.

...Respondents

For the Applicants : Mr. B.R. Das & Mr. N. Roy  
For the Respondents : Mr. L.K. Chatterjee & Mr. S.K. Ghosh

**O.A. NO. 350/00147/2014**

1. Susil Kumar Pal  
Son of Late A.L. Pal  
Aged about 67 years and resident at GC-26/2/1  
Rabindra Pally Baguiati, Kolkata – 700059.
2. Probin Kumar Mullick  
Son of Late K.C. Mullick  
Aged about 66 years and residing at C-29/1  
Bengur Avenue, Kolkata – 700055.
3. Anand Mohan Khanna  
Son of Late M.L. Khanna

*[Handwritten signature]*

Aged about 67 years and residing at 108-149  
Sisaman Bazar, P. Road, Kanpur – 208009.

4. Debasish Mukhopadhyay  
Son of Late S.K. Mukherjee  
Aged about 67 years and residing at  
C/o Iswari Patel, Diwanbada, Manegaon  
Ranjhi, Jabalpur – 482005.
5. Rajkumar Basu  
Son of Late S.B. Basu  
Aged about 69 years and residing  
At 303, Ashit Apartment (OPP. R.T.O.)  
South Civil Line, Jabalpur – 482001.
6. Swapan Kumar Nandi  
Son of Late B. Nandi  
Aged about 67 years and residing at 27  
Palpara (West), P.O. – Chandannagar  
Dist – Hooghly, Pin – 712136.
7. Alin Kumar Pathak  
Son of Late N.K. Pathak  
Aged about 67 years and residing at James Residency  
Block-II, Flat No. 2C., Motilal Gupta Road  
Kolkata – 700008.

...Applicants

-Versus-

1. Union of India through the Secretary  
Ministry of Defence, Government of India  
Department of Defence Production & Supplies  
South Block, New Delhi – 110001.
2. Director General of Ordnance  
Factories and Chairman  
Ordnance Factory Board, 10  
Shaheed Khudiram Bose Road  
Kolkata – 700001.
3. General Manager, Field Gun Factory  
Kanpur, Uttar Pradesh, Pin – 208009.

*Manu Singh*

4. General Manager, Gun Carriage Factory  
Jabalpur, Madhya Pradesh, Pin – 482001.
5. General Manager, Vehicles Factory  
Jabalpur – 482009, Madhya Pradesh.
6. General Manager, Ordnance Factory  
Dum Dum, Kolkata – 700028.

...Respondents

For the Applicants : Mr. B.R. Das & Mr. N. Roy  
For the Respondents : Mr. L.K. Chatterjee & Mr. S.K. Ghosh

**ORDER (ORAL)**

**MANJULA DAS, MEMBER (A):**

These cases are analogous and similar question of law and facts are involved. Thus, they are being examined, considered and decided by this common order. With the consent of the parties of all the O.A.s, this bunch of cases can be decided on the basis of pleadings in O.A. No. 350/1136/2011. Therefore, O.A. No. 350/1136/2011 is taken as the leading case for the purpose of deciding all these 5 O.As.

2. In all these cases, the applicants have prayed for a direction upon the respondents particularly respondent No. 2 to include the names of the applicants as the beneficiaries of the judgment and order passed in the T.A. No. 1069 of 1986, Purnendu Mukhopadhyay and Ors. Vs. Union of India and Ors., Judgment and

*Manmoy Das*

order in C.A. No. 2322 of 1993, Union of India and Ors. Vs. Purnendu Mukhopadhyay and Ors and also that C.A. No. 4862 of 2007 filed by Sri Purnendu Mukhopadhyay & Ors. and to extend the same to the present applicants in the same manner as these orders have already been extended to the applicants of Purnendu Mukhopadhyay's case and to other similarly situated persons who are all similarly situated.

3. According to the learned counsel, the Hon'ble Supreme Court hold by judgment and order in C.A. 4862 of 2007 that the case pertaining to Sri Purnendu Mukhopadhyay and Ors. (supra) be made applicable to all those persons like the applicants who are within the deficiency marks 5% less than that required for promotion to Chargeman Grade-II in their Original Gradation Examination should be granted the benefits of the aforesaid judgment and order. According to the learned counsel, the respondents have been acting arbitrarily inasmuch as the present applicants belonging to the same category of persons with those of Purnendu Mukhopadhyay and Ors. are excluded from the grant of benefit of that order despite clear verdict of the Hon'ble Supreme Court till date without any reasons being assigned thereof.

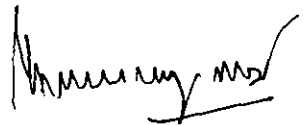
4. This Tribunal by order dated 09.07.1990 categorically had held that in order to avoid multiplicity of litigation on the same issue

Pranav Singh



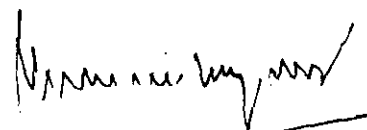
repeatedly, all the similarly situated persons are to be granted benefit of the judgment and order passed in T.A. No. 1069/1986 (Purnendu Mukhopadhyay and Ors.). According to the learned counsel, since the Hon'ble Supreme Court has already held for grant of similar benefits as those of Sri Purnendu Mukhopadhyay's case (supra), there is no need for filling any separate application before any Court or Tribunal. The direction passed by this Tribunal and Hon'ble Supreme Court, the respondents have extended the benefits of the judgment and order in Purnendu Mukhopadhyay's case in succession to other similarly situated and similarly circumstanced persons with Sri Purnendu Mukhopadhyay and others thereby indulging in hostile discrimination to the present applicants. It is incumbent upon the respondents to act in consonance with the spirit and directions of this Tribunal as upheld by the Hon'ble Supreme Court to extend similar benefits of the judgment and order as passed in the case of Sri Purnendu Mukhopadhyay and Ors. (Supra) to the present applicants without resorting to any plea whatsoever.

5. The aforesaid non-action/inaction of the respondents to allow the petitioners the same benefits to the present applicants as beneficiaries of the said judgment and order is in absolute infringement of rights guaranteed under Articles 14 and 16 of the



similar benefits to be extended to the present applicants as well without committing any further discrimination among the same class of persons so as to uphold the principles of natural justice.

6. The respondents have filed their written statement on 23.07.2012 and stated that on the basis of information gathered from the Units/Factories, the identities of the applicants have been tentatively established. The claims of the applicants that they are similarly situated to the beneficiaries of CAT Calcutta's order dated 09.07.1990 as modified vide Hon'ble Apex Court's order dated 05.08.1993 is entirely vague, unfounded and misleading. The names of individuals, similarly situated to the beneficiaries of T.A. 1069 of 1986 are enlisted in the two OFB orders No. 3265/CA-2322/91/PM/GSF/A/NG dated 04.11.1993 and 3265/GKAR/OA 247 (94)/A/NG dated 31.08/01.09.2000 respectively. The names of the applicants are not enlisted in these two OFB orders. Hence they cannot claim to be similarly situated to the beneficiaries of T.A. 1069 of 1986. At the time of publication of the said two OFB orders in 1993 and 2000 respectively, the applicants did not make any claim that they are similarly situated to the individuals listed in those orders. If at all they were similarly situated, they would have requested for inclusion of their names in 1993-94 and/or 2000-01.



7. Respondents further stated that the applicants had chosen to remain quiescent at that time. After a lapse of decades, they have now made the claim all of a sudden probably being allured by the fact that the beneficiaries are being paid arrear wages (for period not worked) in compliance of the order of the Hon'ble Apex Court. It is evident from the deliberate silence of the applicants for many years that the present claim has been made with intent of undue monetary gain taking advantage of the changed circumstances. However, such unfair attempt is not only futile but also barred by limitation after lapse of so many years since the publication of the two orders in 1993 & 2000 respectively.

8. Respondents further stated that the Hon'ble Supreme Court has extended the benefits of the order categorically to all those who had come within the field of eligibility of securing upto 5% less from the cut-off mark. Therefore, the benefit were admissible not to all and sundry but only to those specific individuals who had scored upto 5% less than the cut-off mark. This order of the Hon'ble Supreme Court has already been complied with vide OFB order dated 04.11.1993. This order contains the names of individuals who came in the field of eligibility by securing upto 5% less from the cut-off mark. The applicants in the instant O.A., however, had not come within the field of eligibility as defined by the Hon'ble Apex Court

*Dr. Manoj Kumar*

and hence their names did not find mention in the OFB Order dated 04.11.1993 re-fixing the seniority of individuals who had come in the field of eligibility.

9. According to the respondents, although it is not disputed that in compliance of Hon'ble Apex Court's order dated 05.08.1993, the benefits of re-fixation of seniority was granted to all those who had scored 5% less than the cut-off mark, the claim of the applicants that they are similarly situated with the beneficiaries of this Tribunal dated 09.07.1990 passed in T.A. No. 1069 of 1986 is incorrect as well as misleading and is vehemently opposed, since they did not come within the ambit of eligibility by securing upto 5% less from the cut-off mark.

10. Heard Mr. B.R. Das and Mr. N. Roy, learned counsel for the applicants and Mr. L.K. Chatterjee and Mr. S.K. Ghosh, learned counsel for the respondents. Perused the pleadings carefully and the precedents relied upon.

11. Keeping in view of the above, we deem it fit and proper to direct the respondent authorities to give opportunity of personal hearing to all the individual employees. Accordingly, applicants are directed to submit all the relevant papers to substantiate that they are similarly situated to that of the applicants in T.A. No. 1069/1986, Purnendu Mukhopadhyay Vs. UOI & Ors., which ultimately travelled

*Purnendu Mukhopadhyay*

to the Hon'ble Apex Court vide Civil Appeal No. 2322/1991 as well as CPC No. 1801/2008. Applicants will make individual/joint representation before the appropriate authority within a period of two months from the date of receipt of the order. On receipt of such representation/representations, respondent authorities, i.e. competent authority (General Manager of the respective factories), shall constitute a committee and fix date/dates affording opportunity of being heard personally within a period of four months thereafter to assign as to the veracity of the case of the individual with the case of the Purnendu Mukhopadhyay and the committee thereafter shall prepare the report which will be submitted before the competent authority within a period of 10 days thereafter and the competent authority shall pass a necessary order within a period of one month thereafter and if the applicants are found similarly situated, the similar benefits shall be extended to them immediately.

12. With the above direction, all the O.As. stand disposed of accordingly.

13. M.A. No. 350/00199/2015 which has been filed for substitution of the petitioners namely Sabita Kar, widow of Late Manoranjan Kar and Indranil Kar, son of Late Manoranjan Kar, who was an applicant No. 17 in O.A. No. 350/00142/2013 also stands disposed of. Registry is hereby directed to insert the names of the

*Manoj Kumar*

two petitioners namely Sabita Kar and Indranil Kar in place of Manoranjan Kar in O.A. No. 350/00142/2013.

14. There shall be no order as to costs.

(NEKKHOMANG ~~NEHSIAL~~)  
MEMBER (A)

(MANJULA DAS)  
MEMBER (J)

PB