

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI**

O.A. NO.952/2003

This the 12<sup>th</sup> day of October, 2004

**HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)  
HON'BLE SHRI SHANKER RAJU, MEMBER (J)**

1. Bhagwan Dass S/O Ram Sarup
2. Ratan Singh S/O Dhani Ram
3. Jitender Singh S/O Jagan Nath Singh
4. Vinod Kumar S/O Shiv Narain Garg
5. Surjeet Singh S/O Kartar Singh
6. Harish Chander S/O Manohar Lal
7. H.S.Sethi S/O A.S.Sethi
8. Jag Mohan Lal S/O Manak Chand
9. Chandan Singh S/O Hukam Singh
10. M.F.siddiqui S/O M. Azizur Rehman
11. Sat Pal S/O Surat Singh
12. S.L.Katyal S/O Kashmiri Singh
13. Mahinder Singh S/O Harnam Singh
14. Sat Pal Singh S/O Shanti Swaroop
15. S.K.Sharma S/O Hem Chand
16. Palwinder Singh S/O S.Gurbachan Singh
17. Charan Singh S/O Niranjan Singh
18. Mohammed Ali S/O Md. Nasir
19. Radha Krishan S/O Harichand
20. Bali Ram S/O Mohan Lal
21. Dukh Bhanjan Singh S/O Nunu Prasad Singh

All C/O 768, BKS Marg,  
New Delhi-110001.

... Applicants

( By Shri Naresh Kaushik, Advocate )

-versus-

1. Union of India through  
Secretary, Ministry of Urban Development,  
Nirman Bhawan, New Delhi.
2. Union of India through  
Secretary, Ministry of Finance,  
Department of Expenditure,  
North Block, New Delhi.
3. Director General (Works),  
C.P.W.D., Nirman Bhawan,  
New Delhi.

... Respondents

( By Shri D. S. Mahendru, Advocate )

*lb*

## **O R D E R (ORAL)**

**Hon'ble Shri V. K. Majotra, Vice-Chairman (A) :**

Applicants are working as foreman with CPWD in various categories. According to the applicants, in terms of the recruitment rules, appointment to the post of Foreman is 100% by promotion on completion of five years of service on the post of Sr. Mechanic, Electrician. All the applicants claim to have put in about 15 years of service before their actual promotion as foreman. The post of Foreman in CPWD is categorized as highly skilled supervisory and according to the applicants, is comparable with the posts of Head Clerk and Junior Engineer for all practical purposes. It has also been contended that though the work experience of Foreman is much more than that of Junior Engineer, while the Junior Engineer, in terms of recommendations of the 5<sup>th</sup> Central Pay Commission (CPC) has been allocated the scale Rs.5500-175-9000, applicants as Foreman have been placed in the scale Rs.4500-7000. Applicants have challenged Annexure A-1 dated 3.2.2003 whereby applicants have been denied the scale of Rs.5500-175-9000 on the following grounds:

“(1) There is a difference in the prescribed qualification as well as method of recruitment to the post of Foreman in CPWD and the Department of Economic Affairs, M/o Finance.

(2) The essential qualifications required for appointment to these posts of Foreman cannot be equated with Diploma in the relevant field of Engineering.

(3) The Recruitment/Service conditions of employees of other departments and Junior Engineers/Head Clerks of CPWD are not identical to the post of Foreman in CPWD.”

2. On 13.1.2004, the Court had observed that the impugned orders were passed by the respondents on the basis of the observations of the  
 VD

Ministry of Finance despite applicants' representation (Annexure A-6 colly.). The following observations/directions were made to the respondents:

“We have perused the impugned order of rejection of the representation and we find that the points taken up by the applicants in their representation have not been exhaustively dealt with. Moreover the reasons have also not been given what is the difference between the service condition of Foreman working in other departments such as NDMC etc. and as to why the recommendation of CPWD do not find favour with the Ministry of Finance. Respondents are directed to pass an exhaustive order within a period of 2 months.”

3. Respondents did not pass exhaustive orders in terms of Tribunal's directions dated 13.1.2004. Thus, the following orders were passed on 21.4.2004:

“Respondent No.3 had been directed to remain present in the court on 21.4.2004 to explain as to why exhaustive order in terms of Tribunal's order dated 13.1.2004 has not been passed. He is not present nor has the learned counsel of respondents appeared. The attitude of the respondents is certainly contemptuous. Notice for contempt to be issued to Respondent No.3 returnable in one week and the case be listed on 29.4.2004.”

4. Respondents have now passed orders dated 29.4.2004 incorporating the same grounds on the basis of which applicants' representation was earlier rejected, with the following additional assertions:

“Further, it is also pertinent to mention that the applicants have been working under the offices of Central Govt. whereas the status of NDMC etc is autonomous/statutory and as such their pay and allowances cannot be compared with the category of the Foremen who have been working in these departments. In many organisations having the status of autonomous bodies, the employees have been receiving handsome package and other facilities which are not admissible to the employees of the equal status under Central govt. Similarly, the Railway Board,

W.

Central Ground Water Board etc which are mentioned in the OA have the different Rules and Regulations.

Accordingly his claim is turned down."

5. Respondents have further issued memorandum dated 13.5.2004 reiterating the grounds of rejection of applicants' claim, however, submitting a comparative statement showing the pre-revised and revised scales and educational qualifications in respect of NDMC etc. Respondents have also stated that Foremen in CPWD cannot be compared with Foremen of Railways. The learned counsel of the applicants contended that orders dated 29.4.2004 and 13.5.2004 are not exhaustive in the true spirit of Tribunal's directions. The learned counsel maintained that respondents have rejected the claim of the applicants on the basis of the qualifications for direct recruitment of the supervisory staff in the departments mentioned. He supplemented that applicants were promoted as foremen from the feeder category of Senior Mechanic/Electrician. In cases of promotion, the qualifications prescribed for the feeder category remain unchanged. Qualification prescribed for the higher post for direct recruitment is not applicable to cases of promotion. The post of Foreman in CPWD is categorized as highly skilled supervisory and comparable to the post of Head Clerk and Junior Engineer. The qualifications of the feeder categories for promotion to the post of Head Clerk/Junior Engineer are not changed and the qualifications prescribed for direct recruitment for the higher post are not applicable to cases of promotion. In other words, qualifications at entry level continue at the promotional levels too. The learned counsel, in this view of the matter, maintained that reference to irrelevant facts for rejection of the claims of the applicants would not make the relevant orders

W

passed/issued by the respondents exhaustive in terms of directions of the Court.

6. At this juncture, the learned counsel of the respondents stated that he has recently substituted the earlier counsel of the respondents and that he was not satisfied with the counter filed on behalf of the respondents. He suggested that given some time, respondents would like to pass exhaustive orders on the representation/claims of the applicants. The learned counsel of the applicants did not have any objection to the suggestion made by the learned counsel of the opposite side.

7. In view of the agreement of the learned counsel of both sides, this OA is disposed of quashing and setting aside the earlier orders passed by the respondents on the claims of the applicants for placement in the scale of Rs.5500-175-9000, directing the respondents to pass detailed and speaking orders afresh within a period of one month from communication of these orders on the representation of the applicants and also treating the present OA as a supplementary representation.

S. Raju  
(Shanker Raju)  
Member (J)

/as/

V. K. Majotra  
(V. K. Majotra)  
Vice-Chairman (A)

12.10.04