

20/11  
**LIBRARY**

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH**

Original Application No.350/00582/2015

**THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER**

**THE HON'BLE MR NEKKHOMANG NEIHSIAL, ADMINISTRATIVE MEMBER**

Amartya Talukdar

Aged about 40 years, son of Shri Alok Kumar Talukdar, working to the post of Junior Works Manager (OP)/Mechanical in the Metal & Steel Factory, Ishapore under the control and authority of General Manager, Metal & Steel Factory, Ishapore, 24-Parganas (North) and residing at Flat No. 1 A1/14, Samprikta Co-operative Housing Society, 49A, Govindapur Road, Lake Gardens, Kolkata - 7000045.

... Applicant

- Versus -

1. Union of India service through the Secretary, Ministry of Defence (Defence and Production), Government of India, South Block, New Delhi - 110001.
2. The Director General-cum-Chairman, Ordnance Factory Board (OFB), Government of India, Ministry of Defence, having his office at Ayudh Bhawan 10A, Shaheed Khudiram Bose Road, Kolkata - 700001.

1  
Mr. Manjula Das

3. Union Public Service Commission, service through the Chairman, having its office at Dholpur House, Shahjahan Road, New Delhi – 110069.
4. The General Manager, Metal & Steel Factory, Ishapore, Post Office- Nawabganj, District – North 24 – Parganas, Pin – 743144.
5. The Principal Director of Ordnance Factories Institute of Learning, Medak, Yeddu-mailaram – 502205, Andhra Pradesh.
6. The General Manager, Gun & Shell Factory, Cossipore, Kolkata 700002.

.. Respondents

For applicant (Adv):

Sri P C Das & Ms T Maity

For respondents (Adv):

Sri P.Goswami

Date of hearing: 24.09.2019

Date of Order: 20.11.2019

### ORDER

#### NEKKHOMANG NEIHSIAL, MEMBER (A):

In this OA, filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant is seeking the following relief(s):-

"8.a) To quash and/or set aside the impugned order dated 10.03.2015 issued by the Senior General Manager, Metal & Steel Factory, Ishapore in respect of your

applicant's claim for restoration of annual increment during the period 01.07.2009 after recruitment to the post of Junior Works Manager (OP)/Mechanical being Annexure A-26 of this original application;

- b) To quash and/or set aside the impugned order dated 25.02.2015 issued by the Director General-cum-Chairman, Ordnance Factory Board, Kolkata in respect of rejection of your applicant's claim restoration of his annual increment during the period 01.07.2009 after direct recruitment to the post of Junior Works Manager (OP)/Mechanical being Annexure A-24 of this original application.
- c) To quash and/or set aside the impugned office order dated 02.11.2013 issued by the General Manager, Metal & Steel Factory, Ishapore, whereby and where under without assigning any reason, they have rejected the claim of the applicant regarding grant of increment during the period 01.07.2009 being Annexure A-15 of this original application.
- d) To pass an appropriate order directing upon the respondent authority to restore the annual increment during the period 01.07.2009 of the applicant after direct recruitment to the post of Junior Works Manager (OP)/Mechanical which he is entitled to which he has loosen by the latches on the part of the General Manager, Gun & Shell Factory, Cossipore and after restoring such increment the applicant's pay may be re-fixed to give all consequential benefits in respect of that;
- e) To pass an appropriate order directing upon the respondent authority to regularize the annual increment of your applicant and to re-fix the pay of the present applicant after restoring one increment and to give benefit accordingly in favour of the applicant.
- f) To declare that the action taken by the General Manger, Gun & Shell Factory, cossipore by not releasing the applicant appropriately despite the order

of the highest authority is otherwise bad in law and illegal and for that your applicant may not suffer any manner."

2. The facts, in brief, are that applicant was working in the office of the respondent no.6 as Chargeman Gr.II (Technical) in the office of the respondent no.6 on 13.03.2002. Subsequently, he was promoted to the post of Chargeman Gr.I (Tech/Mech). The applicant while working as such, had applied for permission to appear in Indian Engineering Examination, 2008, and accordingly, he was permitted to appear with 'No Objection Certificate' issued on 19.02.2008. The applicant was finally selected as Junior Works Manager (Prob/Mechanical) and was directed to report for duty in the office of respondent no.5 i.e., Ordnance Factories Institute of Learning, Medak by the respondent no.2 vide appointment letter no.DJDR-34/A/GB/05 dated 11.12.2008. The applicant accordingly vide his application dated 18.12.2008 applied for getting released so as to enable him to join on 29.12.2008. However, the General Manager, Gun & Shell Factory, Cossipore as communicated vide order dated 21.12.2008 did not agree to release him till April, 2009. It is also seen from the records that it has been recorded to have been directed by the Ordnance Factory Board (HQ of organisation) to

join the new organisation by 29.12.2008. The applicant was finally released on 02.01.2009 and he reported to the new office on 05.01.2009. As per norms of pay fixation implemented by the Government subsequent to the 6<sup>th</sup> CPC those who completed six months as on 1<sup>st</sup> July of the year would be entitled to one increment on 1<sup>st</sup> July of the year. The applicant, accordingly, had been given additional increment on 01.7.2009 (though he had joined on 05.01.2009). It has been objected to by Internal Audit vide order No.IA/MSF/SB/NIE/NGO/GO dated 29.08.2002 as his period of service as on 01.07.2009 was found less than six months by four days.

3. The respondents have filed written statement on 10.09.2015 wherein they have contested the claim of the applicant. According to the respondents, though the applicant was granted one increment on 01.07.2009, during annual audit, Internal Audit had raised objection vide note dated 29.08.2012 that since the applicant did not complete six months qualifying period as on 01.07.2009 which was short by four days, he would not be entitled to annual increment for the year 2009. Accordingly, matter was reviewed and the increment granted

earlier was withdrawn. His representations were rejected after due consideration.

4. We have heard learned counsel for both the sides, perused the pleadings and documents on record.

5. The grievance of the applicant is that had the applicant been allowed to join as applied by him and also as directed by the HQ, this benefit of one increment for completing six months as on 01.07.2009 would have been available to him. The fault is on the part of the respondent authorities without any rhymes and reasons. It is seen from the records and submissions that the respondents did not have any justified reason to delay the release of the applicant beyond 29.12.2008. The direction to retain him in the previous establishment till April, 2009 has also not been explained by the respondent authorities. Neither there is any statement to the effect that applicant could not be released in time due to pendency of departmental proceeding or due to any other administrative reasons.

6. In view of the above, we are of the considered view that denying this benefit of one increment as on 01.07.2009 due to action or inaction on the part of the respondent authorities

without any rhyme and reason is not fair to the applicant. Accordingly, impugned orders dated 02.11.2013, 25.02.2015 and 10.03.2015 are set aside and quashed. The applicant would be deemed to have completed six months as on 01.07.2009 for the purpose of pay fixation and the respondents are directed to restore the one increment on 01.07.2009.

7. The OA is allowed as above. There shall be no order as to costs.

(NEKKHOMANG NEHSIAL)  
ADMINISTRATIVE MEMBER

(MANJULA DAS)  
JUDICAIL MEMBER

/BB/