

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12236 OF 2017

Union of India,
Through the Secretary,
Ministry of Defence and Others ... Petitioners

versus

Shri.Sunil Kumar Jain and Others ... Respondents

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Mr.Neel Helekar i/b. Mr.Ashutosh R. Gole for the Petitioners.
Mr. A.S.Rao with Mr.Upendra Lokegaonkar i/b. Mr.Rupesh Dubey
for Respondent Nos. 1 and 3.

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CORAM : NITIN JAMDAR &
MANJUSHA DESHPANDE, JJ.

DATE : 7 NOVEMBER 2023

P.C.:

On 12 October 2023, after hearing the parties at length, the
following order came to be passed :

“ Heard learned Counsel for the parties.

*2 Three employees working in engineering cadre of
Southern Command had approached the Central
Administrative Tribunal praying for non-functional
up-gradation with effect from 1 January
2006 and not from 3 January 2006. The Tribunal
allowed the Original Application following the
order passed by the Principal Bench of Central*

Administrative Tribunal in Original Application No. 761 of 2012 in the case of Dr. Badri Singh Bhandari and Anr. V/s. Union of India and Ors..

3 The learned Counsel for the parties have placed before us the order passed by the Division Bench of the Delhi High Court in the case of Union of India and Ors. V/s. Dr. Badri Singh Bhandari and Anr.¹ disposing of the petition filed by the Union of India challenging the order passed in the case of Dr. Badri Singh Bhandari and Anr. V/s. Union of India and Ors.. Thereafter, the order dated 13 August 2021 passed by the Division Bench of the Delhi High Court in Writ Petition (Civil) No. 3730 of 2015 in the case of Union of India V/s. Tushar Ranjan Mohanty is also placed on record. An order dated 17 December 2019 passed in the case of Union of India V/s Rakesh Kumar and Ors. in Writ Petition (Civil) No. 8329 of 2016 of the Delhi High Court is also placed on record which follows the decision in the case of Union of India V/s. Tushar Ranjan Mohanty. Our attention is also drawn to the order passed by the Hon'ble Supreme Court in dismissing the Special Leave Petition filed by the Union of India challenging the decision in the case of Union of India V/s Rakesh Kumar and Ors.. While dismissing the Special Leave Petition, the question of law was kept open.

4 The decision in the case of Dr. Badri Singh Bhandari and Anr. V/s. Union of India and Ors. itself makes it clear that it has not gone in the merits of matter. Thereafter the subsequent Division Benches of the Delhi High Court had followed the said decision in the case of Dr. Badri

Singh Bhandari and Anr. V/s. Union of India and Ors. and extended the principles of parity, observing that there are no distinguishing features.

5 Therefore, as the orders placed before us show that around 66 employees have been benefited in a particular manner as ordered by the Courts and those benefits are now extended to them. The question is whether the same parity should be extended to the Respondents before us, which are only three. The learned Counsel for the Petitioners seeks time to take instructions whether the case has large scale implications beyond the three Petitioners before us.

6 Stand over to 7 November 2023.

7 If it is not demonstrated that the case does not have large scale implications, the Court may consider extending the benefits of the orders passed by the Division Bench of the Delhi High Court in the case of the Respondents as well.”

2. The matter was kept today giving time to the Respondents as stated in paragraph 7 above.

3 The learned Counsel for the Petitioners- Union of India states that he has no instructions even though he has communicated to the Petitioners-Union of India the query of the Court and seeks further time.

4. The order dated 12 October 2023 is a detailed order. In spite of sufficient time, no distinguishing features are placed before us.

We are not inclined to disturb the order passed by the Central Administrative Tribunal which is in favour of the Respondents.

5. In light thereof, the Writ Petition is dismissed.

(MANJUSHA DESHPANDE, J.) (NITIN JAMDAR, J.)