

46

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.**

O.A.210/00299/2014

Date of decision : December 13, 2019.

**Coram: Dr.Bhagwan Sahai, Member (Administrative)
R.N. Singh, Member (Judicial).**

1. Manaskumar Harischandra Petkar
Age 56 years,
Occupation:Service,
M.E.S.No.199421, G.E. (N.W.)
Makhurd, Mumbai 400 088.
Residing at
A/09-02, Gurukrupa,
Housing Society,
Sector-3, Sanpada,
Navi Mumbai-400 705.
2. Rahidas Haribhau Satpute
Age-51 years,
MES 199434,
G.E. (N.W.)
Mankhurd, Mumbai-400 088.
Residing at: P/32/10,
S.P.D.C. Colony,
Sion Trombay Road,
Mankhurd, Mumbai-400 088.

.. Applicants.

(By Advocate Shri P. B. Kakade).

Versus

1. Teh Chief Engineer
(Southern Command)
Engineers Branch,
Pune 411 001.
2. Chief Engineer (Navy)

Head Quarters,
26, Assaye Bldg.,
Colaba, Mumbai-400 005.

3. Commander Works Engineers
(Subs) Powai, Bhandup,
Mumbai 400 078.
4. Sudhakar Gundu Kamble,
MES 188692
Age: Adult, Occ. Service,
R/at: F/286/6 Navsena
Baug, Navi Quarters,
Lonavala, Dist. Pune.
5. Sunil Sitaram Dhavare,
MES 188698,
Age: Adult, Occ. Service,
R/at: P/322/2 Pratap Nagar,
INS Shivaji, Lonavala,
Dist. Thane.
6. Raju Shankar Sable,
MES 188631,
Age: Adult, Occ. Service,
R/at: P/286/6 Navsena Baug,
Navi Quarters, Lonavala,
Dist. Pune-410 407.
7. Shri B. J. Kate,
MES 188120, Age: Adult,
Occ. Service, INS Shivaji,
G. E. Lanavala,
Dist. Pune.

.. Respondents.

(By Advocates Shri V. B. Joshi, Shri D. A. Dube
and Shri Vicky Nagrani).

O R D E R (O R A L)

Per : R. N. Singh, Member (Judicial)

Present.

1. Shri R. B. Kakade, learned counsel for
the applicants.

2. Shri D. A. Dube along with Shri V. B. Joshi, learned counsels for the respondents.

3. Shri Vicky Nagrani, learned counsel for the private respondents.

4. Heard all the learned counsels for the parties.

5. The applicants, two in number, who are working as Fitter General Mechanical High Skill (HSK)-1 have filed the present OA, under Section 19 of the Administrative Tribunals Act, 1985 to challenging the letter no.16118/TT-HS/1097/E1B(2) dated 22.03.2014 (Annexure A-1) vide which the respondents have contemplated a review trade test for left out senior SC candidates for promotion from FGM (HS-II) to FGM (HS-1) as on 01.09.1997.

6. The learned counsel for the applicants argues that since very beginning of their service, the applicants have been senior to the respondents no.4 to 7. However, the respondents no. 4 to 7 approached this Tribunal vide OA No.1161/1997 and in view of the directions of the Tribunal in the said OA, they were allowed to participate in the Trade test and thereafter

being successful in the trade test, they became senior to the applicants' in HS-II. The applicants grievances are that once the applicants have been senior initially even if they have become junior to the respondents no.4 to 7 in HS-II their original seniority should be maintained.

7. The applicants have prayed for the following reliefs in the present OA:-

"a) Hon'ble Tribunal be pleased to quash and set aside the convening letter dated 22.03.2014, 25.03.2014, 11.04.2014 and 01.05.2014 orders issued by the Respondents.

b) The Honourable Tribunal be pleased to direct to the Respondents not to conduct Trade Test FGM, HS-I of the Petitioners fixed on 09.05.2014 as the Petitioners have passed FGM (HS-II) Trade Test to FGM (HS-I). It is made clear vide letter dated 01st Nov. 2013.

c) The Applicants in O.A. No.1161 of 1997 have been promoted from 1997. The Applicant be treated as promoted in grade of FGM, HS-I from the same date of 1997, as they have passed Trade Test FGM, HS-I conducted on 30th Oct. 2001 and result declared on 1sr Nov. 2001.

d) The Petitioners be given Grade of FGM MCM (Master Craftsman) from the year 2003, as it is given to the Applicants in O.A. Mp/1161 of 1997. Treat the applicants par with the Applicants in OA No.1161 of 1997 and

grant the pay fixation similar to the Applicants in OA No.1161 of 1997 and financial benefit be awarded to the Applicants."

8. In response to the notice from this Tribunal, the respondents have filed reply. The applicants have filed rejoinder.

9. The only ground urged by the learned counsel for the applicants is that initially they were senior to the respondents 4 to 7, however, they got superseded by them on account of their participation and getting qualified in the requisite trade test earlier than the applicants. Per contra the learned counsel for the respondents, besides other grounds, has taken objection that the OA is barred by limitation, delay and laches as the applicants cannot claim the reliefs after 14 years which the applicant in OA No.1161/1997 got in the year 1997 or in 2001. He further submits that the respondents have the option of participation in review trade test for the left out senior SC candidates as a conscious decision to enable the genuinely left out candidates to participate in the requisite trade test and get back their original seniority restored.

10. At this stage, the learned counsel for the applicants under instructions from the applicants who are present in court, submits that the applicants, are now not having any objection to participate in the proposed review trade test in furtherance of the impugned letter dated 22.03.2014 (Annexure A-1) if same is held in a time-bound manner and without being influenced by the fact that the applicants have approached this Tribunal vide the present OA.

11. In response to such submissions, Shri V. B. Joshi, learned counsel for the respondents no.1, 2 and 3 under instructions from the departmental representative, who is present court, submits that subject to just exceptions the proposed review trade test in pursuance of the letter dated 22.03.2014 (Annexure A-1) shall be conducted within three months and if the applicants are willing to participate, they shall be allowed to participate therein without being influenced by the action of the applicants in approaching this Tribunal.

12. In view of the above submissions, the OA is disposed of with order that the respondents 1

to 3 shall conduct the Trade Test in further of the impugned letter dated 22.03.2014 (Annexure A-14) within three months of receipt of a certified copy of this order and if the applicants apply to participate therein, permit them and finalize their result without being adversely influenced by their filing of the present OA. The applicants shall be entitled for the consequential benefits in accordance with relevant rules and policy of the respondents.

13. No order as to costs.

(R. N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

V.

SD
03/01/2020

