

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A./100/4003/2014



New Delhi, this the 21st day of January, 2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

1. Madan Singh Panwar,
Aged About 34 years, working as highly skilled,
S/o Late Sh. G.S. Panwar,
R/o 27, Keshav Road, Laxman Chowk
Dehradun-248001
2. Nandan Singh Bisht,
Aged About 35 years, working as highly skilled,
S/o Sh. Gopal Singh Bisht,
R/o 8 No. Nehrugram Garhwali Colony,
Raipur, Dehradun-248008
3. Neeraj Joshi,
Aged About 36 years, working as highly skilled,
S/o Sh. S.N. Joshi,
R/o 31/11, Dhak Patii
Raipur, Dehradun-248009
4. Arvind Kumar,
Aged About 36 years, working as highly skilled,
S/o Sh. D.P. Singh,
R/o V&PO Ranipokhri, Nagagher
Dehradun-248145
5. Vineet Kumar Solanki,
Aged About 35 years, working as highly skilled,
S/o Late Sh. B.S. Solanki,
R/o Village Jhabrani
PO Thano, Dehradun
6. Saurabh Sharma,
Aged About 34 years, working as highly skilled,
S/o Late Sh. T.K. Sharma,
R/o 4, Tilak Road, Near Bindal Bridge,
Dehradun-248001
7. Lalit Joshi,
Aged About 37 years, working as highly skilled,
S/o Late Sh. D.D. Joshi,
R/o Village Sunderwala, PO Raipur
Dehradun-248008

8. Lalit Prasad Bhatt,
 Aged About 37 years, working as highly skilled,
 S/o Late Sh. R.C Bhatt,
 R/o Vill. & PO Shamsher Garh
 Dehradun-248001

9. Mohd. Nawab
 Aged About 40 years, working as highly skilled,
 S/o Sh. Sardar Hussain,
 R/o C-20, Raksha Vihar, Archal Dairy
 Raipur Road, Dehradun-248008

10. Pawan Kumar,
 Aged About 37 years, working as highly skilled,
 S/o Late Sh. G.C. Yadav,
 R/o Upper Nathapur
 PO Nehru Gram, Near No. 6 Pull
 Dehradun-248001

...Applicants

(Through Shri M.K. Bhardwaj, Advocate)

Versus

Union of India & ors. Through:

1. The Secretary
 Govt. of India
 Ministry of Defence
 South Block,
 New Delhi-110001

2. Director General,
 Ordnance Factory & Chairman
 Ordnance Factory Board,
 10-A, Shaheed Khudi Ram Bose Road,
 Kolkata

3. The General Manager
 Ordnance Factory Dehradun,
 Ministry of Defence,
 Govt. of India, Dehradun

...Respondents

(Through Ms. Aishwarya Dobhal for Shri Hilal Haider, Advocate)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicants were initially appointed as Machinist/
 Fitters in the Ordnance Factory at Dehradun. It is stated
 that next higher post is skilled and highly skilled.





2. The applicants contend that the condition precedent for a Machinist to move to skilled and highly skilled is passing of a trade test and that on 14.06.2010, the Ministry of Defence, as a measure of restructuring, provided for one time relaxation from passing the trade test. It is stated that the applicants were promoted to the skilled category in April, 2010 and were put in the relevant pay scale.

3. Through order dated 17.04.2012, the Ministry of Defence clarified that the relaxation provided for through the letter dated 14.06.2010 was a one time measure, and any relaxation for the period beyond 14.06.2010 is not permissible. In this view of the matter, the grade pay which was given to the applicants for skilled, was withdrawn through order dated 17.04.2012. However, it was partially restored through order dated 9.07.2013 on their clearing the trade test.

4. The applicants filed this OA, challenging the various steps taken by the respondents including the orders dated 17.04.2012 and 9.07.2013. They contend that the benefit of relaxation was accorded to them strictly in accordance with letter dated 14.06.2010 and on account of misinterpretation, the benefit of the pay scale was withdrawn.



5. Respondents filed counter affidavit opposing the OA. It is stated that the matter was verified at various stages and when it was noticed that the benefit extended was not in accordance with law, the same was withdrawn. They state that it was restored, once the applicants complied with the relevant rules.

6. We heard Shri M.K. Bhardwaj, for the applicants and Ms. Aishwarya Dobhal for Shri Hilal Haider, for the respondents.

7. The movement from the post of Machinist to the skilled/ highly skilled, is on the basis of clearing a trade test. In the year 2010, substantial restructuring has taken place and the requirement of clearing the trade test was relaxed, as a one time measure. It appears that in certain cases relaxation was given beyond 14.06.2010 and that was not accepted by the Ministry of Defence. Accordingly, the order dated 17.04.2012 was issued, and it reads as under:

“Please refer to para 4 (vi) of the OFB letter at Reference (1) and para 3(b) of MoD letter at reference (2) regarding relaxation of the conditions for placement of the individuals due to restructuring as one time measure from 01.01.2006 till the issue of order.

(2) Subsequently, MoD vide I.D. No. 11(5)/2009-D(Civ.I) dated 02.09.2011, has clarified that relaxation of the conditions, if any, as one time measure shall be applicable from the period from 01.01.2006 to 14.06.2010 (the date of issuance of MoD letter). The said MoD I.D. dt. 02.09.2011 has been circulated vide PC of A(Fys) letter Pt. I.O.O. No.AT/26 dt. 08.12.2011 (copy enclosed). However, OFB had taken up the matter with Ministry of Defence for extending the relaxation of the conditions upto 13.12.2010

(the date of issuance of OFB restructuring letter) instead of 14.06.2010.



(3) MoD vide I.D. at reference (3) has informed that the matter has been examined and it has not been found possible to extend the one time relaxation of the conditions i.e. Trade Test etc. as one time measure beyond the period 14.06.2010 and requested that contents of para 3(b) of MoD letter at ref. (2) may be adhered to strictly. Copy of the said MoD I.D. dated 30.03.2012 along with enclosure is forwarded herewith for information and necessary action.

(4) Further regarding the issue of revision of option as communicated vide para – 6 of OFB letter at reference (1) and para – 4(iii) of MoD letter at reference (2) PC of A (Fys.) vide circular at reference (4) has clarified that revised option for pay fixation w.e.f. 01.01.2006 as a consequence of restructuring of cadre of Artisan Staff may be exercised by IEs within three months from the date of issue of Pt. II orders in this regard. A copy of the PC of A (Fys.) circular No.Pay/Tech-II/04 dated 20.03.2012 is also enclosed herewith for information and necessary action.”

8. It is on the basis of this letter, that the benefit of higher pay scale extended to the applicants was withdrawn. However, the respondents did not issue any Show Cause Notice to the applicants nor their version was taken note of.

9. On their own accord, the respondents have restored the benefit to the applicants with effect from 9.07.2013. The circumstances under which the applicants were denied the benefit between April, 2010 and 9.07.2013 are not spelt out anywhere.

10. Even now the respondents can address the issue and, for this purpose, they need to verify whether the promotion to skilled/highly skilled was extended to the applicants, on the basis of any relaxation in terms of order dated 14.06.2010 or in violation thereof. If it is found that the

relaxation was contrary to the order dated 14.06.2010, the same shall be pointed out to the applicants and their representation needs to be considered. The exercise in this behalf shall be completed within a period of three months from the date of receipt of a certified copy of this order. The feasibility of extending the benefit of higher pay scale at least from the date the applicants cleared the trade test, shall also be considered. The OA is disposed of with these directions. There shall be no order as to costs.



(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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