

Central Administrative Tribunal

Principal Bench, New Delhi



O.A. No.3042/2016

Tuesday, this the 4th day of February 2020

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

1. All Indian Naval Draughtsman Association
 Through :
 Kamal Singh, President
 Age about 57 years
 Working as Draughtsman Gr-I
 DND (SSG), IHQ, MOD (N)
 R/o 1107, Pocket-3
 Sector-19, Dwarka, New Delhi-75
2. Sudershan Kumar Mudgal
 General Secretary
 Age about 53 years
 Working as Draughtsman Gr-I
 In DWE, IHQ, MOD (N)
 "C" Wing, Sena Bhawan
 New Delhi-110075
3. Davender Nath Chaudhary
 Aged about 30 years
 Executive Committee Members
 Working as Draughtsman (C)
 In Directorate of Ship Production
 IHQ, MOD(N), D-1 Wing, 2nd Floor
 Sena Bhawan, New Delhi-110011
4. Rohit Kumar
 Age about 25 years
 Working as Draughtsman (L)
 In Directorate of Ship Production
 Integrated Headquarter
 Ministry of Defence (Navy)
 Sena Bhawan, New Delhi-110011
5. Sachin Solanki
 Aged about 23 years



Working as Draughtsman (E)
 In Directorate of Ship Production
 Integrated Head Quarters
 Ministry of Defence/Navy
 Sena Bhawan, New Delhi

6. Gaurav
 Aged about 28 years
 Working as Draughtsman (C)
 In Directorate of Ship Production
 Integrated Headquarter
 Ministry of Defence (Navy)
 DSP, Sena Bhawan, New Delhi.

..Applicants

(Sri Kunal Kalra, Advocate)

Versus

Union of India through

1. The Secretary
 DOP&T, New Delhi
2. The Secretary
 Ministry of Defence
 Sena Bhawan, New Delhi
3. Chief of Naval Staff
 Ministry of Defence
 Sena Bhawan, New Delhi
4. The Flag Officer
 Commanding-in-Chief
 Civilian Recruitment Cell
 Head Quarters
 Southern Naval Command
 KOCHI-682004
5. Sarjeet, aged about 27 years
 s/o Shri Raghu Veer
 r/o V&PO Pingore
 Tehsil Hodal
 Distt. Palwal-121105



6. Surender Kumar, aged about 28 years
s/o Shri Jai Singh
r/o V&PO Babain, Tehsil Shahabad
Distt. Kurukshetra-136156
7. Meenakshi, aged about 27 years
d/o Shri Sheesh Ram
r/o WZ-348, Basai Dara Pur
New Delhi-110015
8. Dharmender Singh, aged about 26 years
s/o Shri Sube Singh
V&PO Bawania
Tehsil & Ditt. Mahendergarh-123034
9. Bharat Sagar, aged about 27 years
s/o Shri Mahender Singh
r/o G-102, Harkesh Nagar
New Delhi-110020
10. Hansraj Bhardwaj, aged about 28 years
s/o Shri Girdhari Lal
V&PO Meesa
Tehsil & Distt. Palwal-121102
11. Vikas Kumar, aged 28 years
s/o Shri Naresh Kumar
r/o RZ-61/8A, Street No. 18
Vashisht Park, Pankha Road
New Delhi-46
12. Rohit, aged about 23 year
s/o Shri Ravinder
r/o House No. 139
Village Kaluwas, P.O. Paluwas
Distt. Bhiwani-127021
13. Rechal Massey, aged about 26 years
d/o Shri Robert Massey
r/o of E-78 (First Floor)
Anandwas, Shakurpur
Delhi-110034
14. Ved Prakash, aged about 29 years
s/o Shri Dharam Singh



r/o V&PO Bhiduki, Mohalla Udnaka
Tehsil Hodal, Distt. Palwal-121107

15. Shivani Dewan, aged about 21 years
d/o Shri Anil Kumar
House No. 214/4 Marla
Model Town
Gurugram-122001
16. Ruchi Sharma, aged about 27 years
d/o Shri Surender Pal Sharma
r/o House No. W-108/1
Chander Shekhar Azad Gali No. 4
Babarpur, Shahdara
Delhi-32
17. Manoj Singh Rawat, aged about 28 years
s/o Shri Darwan Singh Rawat
r/o A-77, Durga Park
Dallupura, Near Durga Mandi
Delhi-110096
18. Alka Sharma, aged about 31 years
W/o Shri Rahul Sharma
r/o 41A/1, Yusuf Sarai, New Delhi-110016
19. Narender, aged about 28 years,
V&PO Pingore, Tehsil Hodal,
Distt.Palwal-121105
20. Ravinder Hudda,
Aged 27 years,
Vill. Bhoopgarh, P.O. Marroli,
Tehsil Hodal, Distt. Palwal-121106
21. Ravi Bhushan Prasad,
Aged 28 years,
C-118, Qutub Vihar, Part-II
Near Hanuman Chowk,
Goiyla Dairy, New Delhi-110071
22. Shaurav Awasthi,
Aged 27 years
121, Vill. Hathithan, P.O.
Bhuntar, Tehsil & Distt. Kullu, H.P.



23. Amit Pratap Singh,
Aged 28 years
Vill. Katra Indra Kunwar,
P.O. Dherna, Distt.
Pratapgarh-230002
24. Manjeet Kumar Tiwari,
Aged 26 years
Vill. Nadroi, P.O. Lodha,
Distt. Aligarh-202140
25. Ashish Dhyani,
Aged about 27 years
Vill & P.O. Bhoun, Patti Eria
Kottalla, Distt. Pauri
Garhwal-246277
26. Gopal,
Aged 31 years
H. No.12/A, Street No. 2
(Banjare Wali Gali, Mukesh Nagar,
Shahdara, Delhi-110032
27. Manish Sharma,
Aged 29 years,
32/1011, DDA Flats,
Madangir, New Delhi-110062
28. Tripta Sharma,
Aged 31 years
C-69A, Gali No. 5, Ganesh Nagar,
Pandav Nagar Complex,
Opp. Mother Dairy East,
Delhi-1100092
29. Sandeep Kumar,
Aged 25 years
V&PO Manoharpur, Distt. &
Tehsil Jind-126102
30. Pradeep K Singh,
Aged 27 years
1779, NH IV, Faridabad



31. Gaurav Chauhan,
Aged 27 years
H. No. 425, Krishna Colony,
Palwal, Haryana
32. Ravi Kant
Aged 27 years
H. No. 435, W. No. 11,
Rajinder Nagar, Kalyat
Distt., Kaithal-136117
33. Sanjeet Kumar,
Aged 32 years
H. No. 1755, CPWD Quarters,
Faridabad-121001
34. Dharambir,
Aged 26 years
Gopalpur, Rohtak
35. Tisha Tomy
Aged 30 years
Chullithara House
Blaparambu Road
Palluruthy P.O.
KOCHI-682006 ERNAKULAM DISTT.
36. Pooja Prasenan
Aged 29 years
H. No. XXVII/272
Kollara House
PWD Road, Nettor P.O.
KOCHI-682 040
ERNAKULAM DISTT.
37. Akhila KS
Aged 24 Years
c/o Office Superintendent
INS Dronacharya
Fort Kochi
Kochi-682 001
ERNAKULAM DISTT

...Review Applicants

(Sri Gyanendra Singh, Advocate for respondent Nos.1 to 4
- Sri Vidya Sagar, Advocate for respondent Nos.5 to 37)

O R D E R (ORAL)



Justice L. Narasimha Reddy:

The 1st applicant is an Association of Navy Draughtsman (D'man) and other applicants are said to be its members or office bearers, as the case may be. In the civil establishment of Navy, the post of D'man is in three levels, namely, Grades I, II and III. Promotion to Grade II is from Grade III on completion of 8 years of service by an employee. Promotion to Grade I is from Grade II on completion of 3 years experience. The posts carry independent pay scales.

2. The 6th Central Pay Commission (CPC) recommended the merger of D'man Grades I & II into a category of Senior D'man and to keep Grade III intact. The recommendations of the 6th CPC were implemented and a common pay scale is allowed for erstwhile Grades I & II and a different pay scale for Grade III. However, the Recruitment Rules (RRs), which maintained distinction between these categories, were not amended.

3. The Navy issued an Advertisement in July, 2016 proposing to fill 486 vacancies of D'man Grade II in three



separate Trades, i.e., Mechanical, Construction and Electrical. According to the RRs, the appointment of Grade II shall be exclusively through promotion, failing which deputation; failing which direct recruitment. It is also stated that the draft amendments to RRs are under consideration with the DoPT.

4. The applicants filed this O.A. with a prayer to set aside the impugned advertisement and to direct the respondents to convene DPC for promotion to the merged post of D'man Grade I (proposed Senior D'man) in the Grade Pay of Rs.4200/- and consider the cases of applicants for promotion. They have also sought direction to Department of Personnel & Training (DoPT) to approve proposed amendment in RRs of D'man Grade I (proposed designation Senior D'man) submitted by Navy in January, 2015.

5. The applicants contend that there are quite large number of D'man Grade III and though they do not have 8 years of standing for promotion, they are entitled to be considered for promotion to the unified post of Senior D'man. It is also stated that in the light of merger, the qualifications stipulated for the higher post need to be



taken into account and since the experience that is required for the post for promotion to the post of D'man Grade I is only 3 years, such of the D'man Grade III, who have completed 3 years of experience, deserve to be considered for that.

6. The applicants further contend that there was no justification for not approving the amendment to the RRs and the same is resulting in serious hardship. Certain other contentions are also raised.

7. The official respondents on the one hand and private respondents on the other hand, filed separate counter affidavits opposing the O.A. According to them, the merger of D'man Grades I & II was only in the context of pay scales but the process of recruitment remains the same, as earlier, till the RRs are amended. Objection is also raised as to the *locus standi* and the competence of 1st applicant, Association.

8. We heard Sri Kunal Kalra, learned counsel for applicants, Sri Gyanendra Singh, learned counsel for official respondents and Sri Vidya Sagar, learned counsel for private respondents, in detail.



9. Earlier the O.A. was allowed setting aside the impugned Advertisement and issuing direction to the respondents to take further steps to fill the post of Senior D'man Grade. Today itself, we allowed the R.A. Nos.31 & 59 of 2019 after hearing both the parties and have recalled the order dated 18.12.2018. Thereafter, we heard the arguments of learned counsel for the parties, in detail.

10. It is a matter of record that 6th CPC recommended the merger of D'man Grades I & II. In the year 2008, the pay rules were also amended providing for such merger. The result is that the employees, who were occupying the Grades I & II, are drawing the same scale of pay. There is no controversy about this.

11. The steps initiated by the respondents are for appointment to the post of D'man Grade II. It is also necessary to mention that in the context of scales of pay, D'man Grade II is part of a unified post of Senior D'man, whereas for the purpose of recruitment, its identity is left intact under the RRs.

12. Whatever be the circumstances under which the same scale of pay is allowed to Grades I & II, such



unification of pay scale does not have any bearing upon the method of recruitment, which is exclusively governed by the RRs. Merger of posts for the purpose of pay scales is a phenomenon that has nothing to do with the method of selection and appointment.

13. The RRs in relation to D'man Grade II provide that the appointment shall be hundred per cent by promotion, failing which by deputation; failing both by direct recruitment (column 11). The qualifications prescribed for promotion are 8 years of regular service in D'man Grade III and pass in a departmental qualifying test (for the purpose of promotion). It is not the case of the applicants that there are D'man Grade III with 8 years of service, and that such candidates are not being considered for promotion. In case the qualified candidates in Grade III are available, the respondents are under obligation to exhaust the process of promotion first. The method of deputation or direct recruitment can be only in relation to left over vacancies. The record discloses and even the applicants do not dispute, that there is no D'man Grade III as of now, with 8 years of regular service. Obviously for that reason, the respondents have chosen to take recourse



to direct recruitment. It is also necessary to refer to a letter dated 16.11.2015 issued by the Ministry of Defence (Navy). The issue pertaining to the applicability of RRs in the case of merger was dealt with, in paragraph 4 onwards. They read:-

“4. Applicability of RRs in case of a Merger – As per legal position to date, in case of revision / amendments of RRs, the posts are to be filled as per eligibility conditions prescribed in the rules in force at the time of occurrence of the vacancies unless the amended RR are brought into force with retrospective effect. However, the practice has been to give effect to amendments in RRs only prospectively, except in rare cases. Hence, regular appointments may be made in all such cases in accordance with the RRs in-force at the time when vacancy arises.

5. It is pertinent to mention that recently for a proposal of ND (V), it was decided to adopt RRs for the lower post of CM-II pending revision of RR, post approval of the competent authority. In this regard, this Dte letter No CMPR/1010 /RT/ENC dated 30 Oct 15 is relevant (Copy enclosed)

6. In view of above, it is prudent to have a common yardstick for all merged posts/pay scales to avoid any problems in future. Accordingly, the DR of yardcraft personnel in case of merged posts/pay scales be carried out in accordance with the provisions as applicable for the lower posts in existing RRs i.e SRO 53 & 54 of 1981, pending revision of RRs. This has approval of the competent authority in view of aforesaid, all correspondence issued by IHQ MoD (Navy) on relevant subject stands modified/superseded

7. It is further intimated that the educational qualification required for persons to be eligible to be



appointed to Group 'C' posts in Pay Band-1 Rs.5200-20200 plus Grade Pay Rs.1800/- by method of DR has been notified as G S R 73 (E) dated 08 Feb 11 as "Matriculation pass or equivalent from a recognised Board" (Copy enclosed). Accordingly, the educational qualification be read in all RRs as minimum Matriculation Pass, wherever, any lower educational qualification is specified/not specified in RRs."

14. The respondents have taken a policy decision to follow the RRs for D'man Grade II for appointment to that post. No exception can be taken to that. The applicants are also not able to point out that such a course would violate any specific provisions of law or a binding precedent. Even at the cost of repetition, it needs to be observed that the applicants can ventilate their genuine grievance in case any of its members, who are otherwise qualified to be promoted to Grade II under the RRs, are denied promotion, and the respondents are taking recourse to the direct recruitment straightway.

15. Once it is not even alleged that there any qualified D'man Grade III with 8 years of experience, the recruitment in a sensitive organization, like Navy, cannot be held up, just to satisfy the ego or whims of the applicant-Association. The recruitment to about 500 posts is already delayed by about 5 years and the impact



thereof on the operations of Navy is not difficult to be imagined.

16. We do not find any merit in this O.A. It is accordingly dismissed.

There shall be no order as to costs.

February 4, 2020
/sunil/