



Central Administrative Tribunal Principal Bench, New Delhi

R.A. No.31/2019 & R.A. No.59/2019
in
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)**

R.A. No.31/2019

1. Sarjeet, aged about 27 years
s/o Shri Raghu Veer
r/o V&PO Pingore
Tehsil Hodal
Distt. Palwal-121105
2. Surender Kumar, aged about 28 years
s/o Shri Jai Singh
r/o V&PO Babain, Tehsil Shahabad
Distt. Kurukshetra-136156
3. Meenakshi, aged about 27 years
d/o Shri Sheesh Ram
r/o WZ-348, Basai Dara Pur
New Delhi-110015
4. Dharmender Singh, aged about 26 years
s/o Shri Sube Singh
V&PO Bawania
Tehsil & Ditt. Mahendergarh-123034
5. Bharat Sagar, aged about 27 years
s/o Shri Mahender Singh
r/o G-102, Harkesh Nagar
New Delhi-110020
6. Hansraj Bhardwaj, aged about 28 years
s/o Shri Girdhari Lal
V&PO Meesa
Tehsil & Distt. Palwal-121102



7. 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
8. Rohit, aged about 23 year
s/o Shri Ravinder
r/o House No. 139
Village Kaluwas, P.O. Paluwas
Distt. Bhiwani-127021
9. Rechal Massey, aged about 26 years
d/o Shri Robert Massey
r/o of E-78 (First Floor)
Anandwas, Shakurpur
Delhi-110034
10. Ved Prakash, aged about 29 years
s/o Shri Dharam Singh
r/o V&PO Bhiduki, Mohalla Udnaka
Tehsil Hodal, Distt. Palwal-121107
11. Shivani Dewan, aged about 21 years
d/o Shri Anil Kumar
House No. 214/4 Marla
Model Town
Gurugram-122001
12. 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
13. 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
14. Alka Sharma, aged about 31 years
W/o Shri Rahul Sharma
r/o 41A/1, Yusuf Sarai, New Delhi-110016



15. Narender, aged about 28 years,
V&PO Pingore, Tehsil Hodal,
Distt.Palwal-121105
16. Ravinder Hudda,
Aged 27 years,
Vill. Bhoopgarh, P.O. Marroli,
Tehsil Hodal, Distt. Palwal-121106
17. Ravi Bhushan Prasad,
Aged 28 years,
C-118, Qutub Vihar, Part-II
Near Hanuman Chowk,
Goiyla Dairy, New Delhi-110071
18. Shaurav Awasthi,
Aged 27 years
121, Vill. Hathithan, P.O.
Bhuntar, Tehsil & Distt. Kullu, H.P.
19. Amit Pratap Singh,
Aged 28 years
Vill. Katra Indra Kunwar,
P.O. Dherna, Distt.
Pratapgarh-230002
20. Manjeet Kumar Tiwari,
Aged 26 years
Vill. Nadroi, P.O. Lodha,
Distt. Aligarh-202140
21. Ashish Dhyani,
Aged about 27 years
Vill & P.O. Bhoun, Patti Eria
Kottalla, Distt. Pauri
Garhwal-246277
22. Gopal,
Aged 31 years
H. No.12/A, Street No. 2
(Banjare Wali Gali, Mukesh Nagar,
Shahdara, Delhi-110032
23. Manish Sharma,
Aged 29 years,



32/1011, DDA Flats,
Madangir, New Delhi-110062

24. Tripta Sharma,
Aged 31 years
C-69A, Gali No. 5, Ganesh Nagar,
Pandav Nagar Complex,
Opp. Mother Dairy East,
Delhi-1100092
25. Sandeep Kumar,
Aged 25 years
V&PO Manoharpur, Distt. &
Tehsil Jind-126102
26. Pradeep K Singh,
Aged 27 years
1779, NH IV, Faridabad
27. Gaurav Chauhan,
Aged 27 years
H. No. 425, Krishna Colony,
Palwal, Haryana
28. Ravi Kant
Aged 27 years
H. No. 435, W. No. 11,
Rajinder Nagar, Kalyat
Distt., Kaithal-136117
29. Sanjeet Kumar,
Aged 32 years
H. No. 1755, CPWD Quarters,
Faridabad-121001
30. Dharambir,
Aged 26 years
Gopalpur, Rohtak
31. Tisha Tomy
Aged 30 years
Chullithara House
Blaparambu Road
Palluruthy P.O.
KOCHI-682006 ERNAKULAM DISTT.



32. Pooja Prasenan
 Aged 29 years
 H. No. XXVII/272
 Kollara House
 PWD Road, Nettor P.O.
 KOCHI-682 040
 ERNAKULAM DISTT.

33. Akhila KS
 Aged 24 Years
 c/o Office Superintendent
 INS Dronacharya
 Fort Kochi
 Kochi-682 001
 ERNAKULAM DISTT

...Review Applicants

(Sri Vidya Sagar, Advocate)

Versus

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.

..Respondents

(Sri Kunal Kalra, Advocate)

7. Union of India through
 The Secretary
 DOP&T
 New Delhi
8. The Secretary
 Ministry of Defence
 Sena Bhawan
 New Delhi
9. Chief of Naval Staff
 Ministry of Defence
 Sena Bhawan, New Delhi



10. The Flag Officer
Commanding-in-Chief
Civilian Recruitment Cell
Head Quarters
Southern Naval Command
KOCHI-682004

..Proforma respondents

(Sri Gyanendra Singh, Advocate)

R.A. No.59/2019

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

..Revisionists

(Sri Gyanendra Singh, Advocate)

Versus

1. All Indian Naval Draughtsman Association
Through :
Kamal Singh
President
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
Working as Draughtsman Gr-I
In DWE, IHQ, MOD (N)
“C” Wing, Sena Bhawan
New Delhi-110075
3. Davender Nath Chaudhary
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
Working as Draughtsman (L)
Directorate of Ship Production
Integrated Headquarter
Ministry of Defence (Navy)
Sena Bhawan, New Delhi-110011
5. Sachin Solanki
Working as Draughtsman (E)
In Directorate of Ship Production
Integrated Head Quarters
Ministry of Defence/Navy
Sena Bhawan, New Delhi
6. Gaurav
Working as Draughtsman (C)
In Directorate of Ship Production
Integrated Headquarter
Ministry of Defence (Navy)
DSP, Sena Bhawan
New Delhi.

..Respondents
(Sri Kunal Kalra, Advocate)

O R D E R (ORAL)



Justice L. Narasimha Reddy:

O.A. No.3042/2016 was filed by “All Indian Naval Draughtsman Association”. In the Navy, the post of Draughtsman (D'man) is in three stages, namely, Grades I, II and III. Appointment to the post of D'man Grade I is by promotion from D'man Grade II with 3 years of experience. Appointment to D'man Grade II is by promotion of D'man Grade III with 8 years of experience. The Recruitment Rules (RRs) provide for appointment through promotion, failing which deputation; failing which by direct recruitment. The pre-revised pay scales for these posts were:

- i) Rs.4000-100-6000 - D'man Grade III
- ii) Rs.5000-150-8000 - D'man Grade II
- iii) Rs.5500-175-9000 - D'man Grade I

2. The 6th Central Pay Commission (CPC) recommended the merger of D'man Grades I & II, to be named as Senior D'man and to keep D'man Grade III intact. The recommendations were implemented and pay



scales for the concerned categories were allowed. However, the RRs were not amended suitably.

3. The Navy issued Advertisement in July, 2016 proposing to fill 486 D'man Grade II of three separate Trades, i.e., Mechanical, Construction and Electrical. The 1st applicant is an Association and other applicants are said to be its members. They filed O.A. No.3042/2016, with a prayer to set aside the impugned advertisement and to direct the respondents to convene Departmental Promotion Committee (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 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.

4. It was the contention of the applicants that once the posts of D'man Grades I & II were merged, the situation obtaining in the year 2015 needs to be taken into account, and viewed in this context, there was no basis for resorting to direct recruitment at all. According to the



applicants, the RRs do not provide for appointment through direct recruitment for D'man Grade I. It is also stated that the only available feeder category is D'man Grade III and instead of promoting D'man Grade III with 3 years of experience, an Advertisement was issued. Other contentions were also raised.

5. The official respondents filed counter affidavit opposing the O.A. It was pleaded that pending amendment to the RRs, the existing vacancies of erstwhile D'man Grade II are required to be filled to meet the needs of the Navy. It was also stated that the applicants do not have any right to challenge the notification. They have also relied upon certain orders issued by various Departments from time to time.

6. Private respondents, who got themselves impleaded, filed counter affidavit, on the same lines.

7. After hearing the learned counsel for the parties, the Tribunal partly allowed the O.A., through order dated 18.12.2018, setting aside the impugned Advertisement published in July 2016, and leaving it open to the respondents to fill the post of Senior D'man Grade, by



following the RRs of D'man Grade I, pending finalization of the RRs.

8. In these R.As., it is pleaded that certain important aspects relating to consequences, that flow from merger of posts in the context of pay scales, were not taken into account, and that the 1st applicant was not a registered Association at all. It is also stated that till the RRs are amended, the induction to erstwhile Grade II can be only in accordance with the existing RRs, and viewed in this context, the D'man Grade III would become eligible to be promoted to a higher pay scale only on completion of 8 years in that post. It is also pleaded that if a D'man Grade III cannot be promoted to Grade II unless he completed 8 years of service, the question of his being promoted to a unified cadre of Grades I and II with such a qualification, does not arise. Various other contentions are also raised.

9. The applicants in the O.A. filed replies to the R.As.

10. We heard Sri Gyanendra Singh, learned counsel for review applicants in R.A. No.59/2019, Sri Vidya Sagar, learned counsel for review applicants in R.A. No.31/2019,



and Sri Kunal Kalra, learned counsel for respondents, in detail.

11. We are aware of the fact that the review is not an avenue for arguing the case afresh and it is only when a serious defect, which would have a bearing on the result of the case is noticed, that a review can be entertained.

12. The prayer in the O.A. was as under:

- “(i) To call for the records of the case and allow this original application.
- (ii) To quash and set aside the impugned advertisement at Annexure A-1 to this application.
- (iii) To direct the respondents to convene the requisite DPC for promotion to the merged post of Draughtsman Gr.I (Proposes Senior Draughtsman) in the Grade Pay of Rs.4200/- and consider the applicants for promotion.
- (iv) To direct DOP&T to approve proposed amendment in RR's of Draughtsman Gr-I (proposed Designation Senior Draughtsman) submitted by Navy in January, 2015 without waiting for preparation of model RR's for single post as RR's of lower post already amended.
- (v) To pass such other and further orders which the Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case.
- (vi) To allow the Original Application with cost.”



13. In other words, the applicants were very much aware that the RRs need to be amended and for that purpose, DoPT must be directed to give its approval. It is not in dispute that D'man Grade II can be promoted to a higher post only on completion of 8 years of service in that Grade. Even after the re-organization, consequent upon the recommendations of 6th CPC, D'man Grade III remained intact. The change was that instead of promotion being to Grade II, it would be to a unified post of Senior D'man. It is axiomatic that in the event of merger of two posts, the recruitment process should be in accordance with the one, prescribed for a superior post, which stood merged. If D'man Grade III was not entitled to be promoted to a superior Grade II unless he had 8 years of experience, it is natural that he is not fit to be promoted to the unified Grade, which obviously is of higher category, compared to Grade II.

14. The Tribunal was impressed by the fact that there existed only the post of Senior D'man and the post of D'man Grade II did not exist at all. An important facet, namely, that even according to the recommendations of 6th CPC, the eligibility to be promoted to a unified post



carrying the Grade Pays of Rs.2400/- and Rs.4200/-, was stipulated as 10 years and according to the existing Rules it is 8 years, was not specifically brought to the notice of the Tribunal when it decided the O.A.

15. Fixation of pay scales and process of recruitment are independent phenomena. The recommendations of 6th CPC had a bearing on the former and has nothing to do with the latter. The respondents in the O.A. were not able to stress this aspect.

16. Another aspect is that the written test was conducted and quite large number of eligible candidates have participated in the examination. The 1st applicant is an Association, which is not registered. The president and secretary of the so-called Association are D'man Grade I. They cannot be said to have any immediate grievance. Details of other members are not furnished. In an important organization, like Navy, the challenge to the selection process could not be on such uncertain facts. It is only a person, who is otherwise eligible to be promoted, that could have challenged the recruitment process involving such large number of vacancies.



17. The likes and dislikes of an un-registered Association cannot be treated as a factor to prevent the appointment in an important and sensitive organization, like Navy. Naturally, the security of the State cannot be at stake.

18. We, therefore, recall the order dated 18.12.2018 passed in O.A. No.3042/2016.

February 4, 2020
/sunil/