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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. NO.1600/89

New Delhi, this the 9th September, 1994

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri P.T. Thiruvengadam, Member (R)

Shri Kuldeep Singh,  
R/o 46-B, Vishwakarma Park,  
Laxmi Nagar,  
Delhi.

(employed as Electrical  
(M.S.II) in the office  
of Senior Quality Assurance,  
Establishment (Electronics)  
Ministry of Defence.

... Applicant

(Ms. Rite Kumar, Advocate)

Vs.

1. Union of India  
through Secretary,  
Ministry of Defence,  
South Block,  
New Delhi.

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3. Department of Senior  
Quality Assurance Establishment,  
Electronics, Ministry of Defence,  
(D.G.Q.A.),  
19/13, National Stadium,  
New Delhi  
Through Senior Quality  
Assurance Officer.

4. Employment Officer,  
Employment Exchange,  
Pusa, New Delhi.

... Respondents

(Shri VSR Krishna, Advocate)

O R D E R

Hon'ble Shri J.P. Sharma, Member (J)

The applicant was employed as an Electrician (H.S.II) in the office of Senior Quality Assurance Establishment (Electronics), Ministry of Defence. The grievance of the applicant is his non promotion from the post of Electrician (H.S.II) to the post of Fitter Instrument (H.S.I). The post of H.S.I of Fitter Instrument was notified by the order dated 17.6.88 issued by

Department of Senior Quality Assurance Establishment.

The eligible employees of the Establishment who possessed 3 years experience in H.S.II service such as Examiner/ Electrician/Fitter/General Mechanic etc. were asked to appear in the trade test on 2.3.89 at 2 p.m. The result of the applicant of the said trade test was not declared. This application was filed in August 1989.

2. The applicant prayed for the grant of the following reliefs.

- (i) A direction to the respondents to promote the petitioner from the rank of Electrician(H.S.II) to the post of Fitter Instrument from the back date after declaring the result of trade test conducted on 2.3.89.
- (ii) A direction to the respondents not to convert the departmental post of Fitter Instrument into a general post to be filled up by an outside candidate and the respondents not to fill up the post through Employment Officer, Employment Exchange, Pusa.
- (iii) Reliefs at sub para (iv) and (v) of para 8 for quashing of the inquiry proceedings and the report of the Inquiry Officer and to direct the respondents to allow the applicant to participate in the inquiry proceedings was not entertained in this application by the order dated 30.8.89.

3. The respondents contested the application by filing their reply. It was stated that no orders have been passed for filling up the vacancy of Fitter Instrument(General) (H.S.I) from any outside agency.

The declaration of the result of the trade test has been held in abeyance as the disciplinary case against the applicant is pending. A Memo. was issued against the applicant dated 7.3.89 to hold a departmental disciplinary enquiry for the misconduct that he misbehaved with the Office. Supdt. on duty and used unparliamentary language in the office on 24.2.89. He was also charged of an attempt to hit the Office Supdt. with a paper-weight and also torn off the duty chart given to him. He was also suspended by the order dated 2.3.89 but was again reinstated by the order 28.4.89 w.e.f. 1.5.89. The applicant submitted the reply on 28.7.89. Certain averments have been made in the counter regarding the departmental enquiry proceedings but the same is not being referred to in this judgement as the question of chargesheet is not material and is not the subject for decision in this Original Application.

4. As regards recruitment rules in force, an Electrician could only be considered for promotion to the post of Instrument Mechanic after completion of six years of service as Electrician. The applicant would have been eligible for promotion only after 15th March 1989. As none of the eligible departmental candidates was available for promotion/transfer to the said post, the same could have been filled by direct recruitment. However, this was not possible because of the ban on recruitment which was lifted during July 1987. Before the recruitment action could be completed, a revised set of Recruitment Rules was received during October, 1987. From those revised recruitment rules (SRD 16-E dated 17.9.87) it was found that the post of

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Instrument Mechanic had not been reflected in the new recruitment rules. The matter was taken up with the higher Hqrs. to advise the recruitment rules to be followed for filling up the post of Instrument Mechanic. During March 1988, Hqrs. clarified that the post of Instrument Mechanic had been changed to Fitter Instrument (General) for whom the new Recruitment Rules might be followed. In the new recruitment rules it was revealed that for promotion to post of Instrument Fitter (General) post of Electrician would be eligible after 3 years of service as against six years prescribed in the old rules. It was decided in April, 1988, to consider the departmental candidates eligible for promotion. Again certain clarification was sought regarding industrial staff with Respondent No.3 i.e. Department of Senior Quality Assurance (Establishment) who did not tally with the revised PE. In the meantime applications were called for from the eligible staff members and the trade test was held on 8.2.89 after the clarification was received from the Hqrs. in February, 1989. The applicant did not take the trade test so, in order to give a fair chance to the individual concerned and some more time for preparation of the trade test, a fresh trade test was proposed on 2.3.89. He did not accept the interview letter but he finally received the interview letter on 1.3.89. The applicant was never eligible for promotion to the post of Instrument Mechanic lying vacant since 1986 and no final selection has been done yet for direct recruitment in question and the post is still lying vacant. The sealing of the evaluated examination of the paper and non-declaration of the result of the trade test is according to the rules. The result of the same

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will be given after the outcome of the enquiry. The post will be filled up after outcome of the result of this O.A.

5. The applicant has also filed the rejoinder to the reply filed by the respondents. He has reiterated the points taken in the O.A. However, it is stated in the rejoinder that the enquiry was got completed in July, 1989 and yet it is said to be pending.

6. We heard the learned counsel of the parties at length and perused the records. The applicant has also filed O.A. No. 2223/93 against his grievance arising due to the order dated 28.7.93 whereby on being declared surplus the applicant was posted to C.Q.A.(V), Ahmed Nagar on adjustment under SAO-76. The applicant in the new establishment was to be placed juniormost in the present grade. He also joined that post sometimes in September, 1993. That application was decided by the Principal Bench on 3.11.93 and the original application was dismissed as devoid of merit. The applicant was declared surplus by virtue of the report of the SIU, Establishment Study Team, Defence. He is no more on the rolls of the Department of Senior Quality Assurance Establishment at Delhi. The relief claimed on the application by the applicant is for declaration of the result of the trade test for the post of Fitter Instrument (General). The Respondents in their reply have clearly stated that the disciplinary departmental enquiry is pending against the applicant and the result of the applicant has been kept in a sealed cover. It appears that due to applicant having been declared surplus and posted to C.Q.A.(V), Ahmed Nagar, the departmental enquiry

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has not been finally concluded and thus remains pending. We have adjourned the hearing of the case for 2 weeks to give the applicant's counsel Ms. Rita Kumar time to consult the applicant whether he still wants the respondents to conclude the enquiry against him and the learned counsel for the respondents while arguments were resumed after 2 weeks has stated that the respondents should be directed to conclude the enquiry and declare his result. In case the applicant is exonerated he shall be entitled to be given the benefit of the aforesaid trade test held in March, 1989. Regarding other relief claimed by the applicant for the conversion of the departmental post of Fitter Instrument into general post, this is to be governed by the aforesaid recruitment rules which has since been revised by SRO 16-E dated 17.9.87 and subsequently clarification has been given by the Hqrs. In that regard the applicant has no case. The respondents in their counter has also stated that no promotion has been made and that <sup>is</sup> subject to the outcome of this O.A.

7. In view of the above conspectus <sup>of</sup> facts and circumstances, the application is disposed of with the following directions.

i) The respondents shall conclude the <sup>departmental</sup> enquiry against the applicant and pass the final order in the same. In case the applicant is exonerated,

the seal cover of the trade test held by the respondents on 2.3.1989 <sup>be opened</sup> and comply with the same. The applicant to be considered for promotion in the light of that trade test to H.S.I. The other reliefs claimed by the applicant are disallowed.

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(ii) The applicant shall be free to assail the result of the enquiry, if any, according to the rules and this judgement will not bar the right of the applicant to assial the same.

Cost on parties.

*P.J. Thiruvengadam*

(P.T. THIRUVENGADAM)  
Member (A)

*J.P. Sharma*

(J.P. SHARMA)  
Member (J)

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