

CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

DATED THIS THE ¹⁵7 DAY OF October, TWO THOUSAND FIFTEEN

PRESENT:

THE HON'BLE MR. JUSTICE B. SESHASAYANA REDDY, MEMBER (J)

THE HON'BLE DR. P. PRABAKARAN, MEMBER (A)

O.A.504/2013

N.V.R. Krishnan,
Vocational Instructor (Machinist),
Central Training Institute for Instructors,
Directorate General of Employment and Training,
Guindy, Chennai- 600 032. ...Applicant

-versus-

1. The Secretary Rep. UOI,
Ministry of Labour, New Delhi;
2. The Director General,
Directorate General of Employment and Training,
Min. of Labour, New Delhi.

...Respondents

By Advocates:

Party in Person -for the applicant.

Mr. S. Nawaneethakrishnan, for Respondents

ORDER

(Pronounced by Hon'ble Mr. Justice B. Seshasayana Reddy, Member (J))

This Original Application is filed by N.V.R. Krishnan Under Section 19 of the Administrative Tribunal's Act, 1985 seeking the following reliefs:-

"For the reasons stated in the above, the Hon'ble Tribunal may quash the impugned order No. DGET-C-18012/10/2002-TA-I dated 14/09/2012, may direct the respondent, to include Junior Maintenance Mechanic with the cadre of Vocational Instructor, at par with other similarly placed maintenance staffs like, Vocational Instructor Machinist General, Vocational Instructor Fitter General and Maintenance Electricians as extension of benefit and fix my seniority, in the Vocational Instructor cadre, from the date of my appointment, to the post of Jr. Maintenance Mechanic."

2. In a nut shell the relief sought for by the applicant is to treat the Junior Maintenance Mechanic on par with the Vocational Instructor. This is the 3rd journey of the applicant to this Tribunal. Earlier the applicant filed O.A. No. 426/1998 seeking a direction to the respondents to upgrade the post of JMM in par with Vocational Instructor (Machinist General) and to modify or amend the Recruitment Rules for the post of

STA (Senior Technical Assistant)/GI (Group Instructor) providing opportunity of promotion to the category of JMM. The said O.A. came to be allowed partly by order dated 16.08.2000. The relevant portion of the order passed in OA. 426/1998 needs to be noted and it is thus:-

"7. We further find in the reply that the respondents are taking steps to amend the RRs so that the problems faced by persons like the applicant could be solved once and for all. The reason adduced by the respondents for not amending the RRs was that there has been a ban on amendment of the RRs pending recommendations of the V Pay Commission and this submission of the respondents in our opinion appears to be reasonable. We have also given our careful consideration to the averment in the reply that as of now the ban is lifted and that a proposal is being examined by the DG ET (Headquarters), in consultation with the DOPT, for amending the RRs. We take this on record and under the given facts and circumstances of this case ends of justice will be met if the following directions are given to the respondents.

(a) We direct that the respondents will hasten the process of amending the RRs suitable and complete the same within a period of three months from the date of receipt of a copy of this order by the respondents."

The direction given in O.A. No. 426/1998 came to be modified by this Tribunal by an order dated 24.10.2010 passed in Miscellaneous Application No. 720/2000. The modified direction reads as hereunder:-

"We direct the respondents to upgrade the post of JMM on par with VI (Machinist General) and thereby to direct the respondent to suitably modify or amend the RRs for the post of STA(Senior Technical Assistant)/ GI (Group Instructor) so as to provide an effective chance of promotion to the category of JMM."

The order passed in O.A. No. 426/1998 came to be challenged by the respondents therein by filing Writ Petition No. 7111 of 2001 in the High Court of Judicature at Madras. A Division Bench of the High Court of Madras allowed the Writ Petition and set aside the direction given by the Tribunal. The relevant portion of the order passed by the High Court in W.P. No. 7111/2001 reads hereunder:-

"5. We have not found any justification for the relief that the Tribunal has granted. We can find even less justification for the directions given by it viz. that the recruitment rule be amended with a view to promote Junior Maintenance Mechanic to the post of Vocational Instructor. It is not for the Tribunal to either make the rules or to direct

making of the rules, which is a legislative function. The Tribunal has not found any part of the rule already framed as being violative of any provision of the Constitution nor has it quashed any such rule. The direction to re-write the rule, in the circumstances, was wholly uncalled for. The Writ Petition is allowed. Connected Miscellaneous Petition is closed."

Applicant filed Special Leave to Appeal (Civil) in Supreme Court against the judgement and order dated 28.01.2004 and 23.11.2009 in W.P. No.7111/2001 and RA No.165/2009. The said SLP ended in dismissal on 26.11.2010. The order passed in SLP reads as hereunder:-

"Delay condoned.

Although, we are not inclined to entertain the Special Leave Petition, if the petitioner make a representation for being transferred to the post of Vocational Instructor from his present post as Junior Maintenance Mechanic, the same may be considered expeditiously after hearing the petitioner and be disposed of in accordance with the rules.

The Special Leave Petition is dismissed in the above terms."

The applicant submitted representation dated 31.12.2012 to the Director General, D.G.E &T, New Delhi to upgrade the post of Junior Maintenance Mechanic at par with Vocational Instructor with all consequential benefits retrospectively from the date of his appointment to the post of JMM (Junior Maintenance Mechanic). Pending consideration of the representation, he approached this Tribunal by filing O.A. No. 55/2012 seeking direction to the Secretary, Rep. Government of India, Ministry of Labour, New Delhi and the Director General, Joint Secretary, Directorate General of Employment and Training, Ministry of Labour, New Delhi to consider his representation dated 31.12.2010. The said O.A. came to be disposed of by this Tribunal on 19.01.2012 directing the Director General, Joint Secretary, Directorate General of Employment and Training, Ministry of Labour, New Delhi to consider the representation dated 31.12.2010 and pass a speaking order. Pursuant to the direction given in the O.A., the Director, Directorate General of Employment and Training disposed of the representation of the applicant by a speaking order dated 13/14.09.2012. Dissatisfied with the said speaking order, the applicant filed O.A. No. 501/2013. The said O.A. ended in dismissal on 1.09.2015. The relief sought for in the present O.A. is almost identical to the relief

sought for by the applicant in O.A. No. 501/2013. According to the applicant, the department suppressed the material facts and thereby, made the High Court to set aside the order passed by this Tribunal in O.A. No. 426/1998. It is the plea of the applicant that Junior Maintenance Mechanic performs dual duties when compared with Vocational Instructors. As certified by the department itself, the Junior Maintenance Mechanic takes up greater responsibilities than that of Vocational Instructor and therefore there is no impediment to fix the pay scale of J.M.M. at par with Vocational Instructor. The department itself recommended to enhance the scale of pay of Jr. Maintenance Mechanic at par with Vocational Instructor. Having made such recommendation, the department is not justified in saying that Vocational Instructor and Junior Maintenance Mechanic are not equivalent to each other. The department itself transferred Mr. P. Alai as Vocational Instructor from the post of JMM considering both the posts are similar and equal according to the Recruitment Rules. The services of Mr P. Alai as vocational instructor and Jr. Maintenance Mechanic were taken together for the purpose of qualifying period for further promotion. The department having taken such stand is not justified in turning down the request of the applicant.

The department treated ^{an} ~~the~~ Electrician at par with Vocational Instructor .

2. Respondents filed reply statement. It is stated in the reply that the services of Junior Maintenance Mechanic (JMM) ^{are} ~~is~~ to be utilized in case of repairs and maintenance of machineries. The Junior Maintenance Mechanic (JMM) is not entrusted with any kind of teaching work in the Training Institute. The post of Junior Maintenance Mechanic (JMM) is sanctioned only at Advanced Training Institute, Chennai for maintaining the machineries and equipments, whereas the post of Vocational Instructor is only attached with Craftsman level Training and the post is sanctioned at Central Training Institute for Instructors. The applicant being Junior Maintenance Mechanic at Advanced Training Institute cannot claim up-gradation of his post to the post of Vocational Instructor. The applicant earlier filed O.A. 426/1998 with almost similar relief and the relief granted in the said O.A. came to be set aside by the High Court of Madras in W.P. No. 7111/2001. The applicant is now working at Central Training Institute (ATI), Guindy as Vocational Instructor with effect from 24.06.1999 through a Direct Recruitment process and therefore there is no merit in his claim as to upgradation

of Junior Maintenance Mechanic (JMM) with retrospective effect.

3. Heard party in person and learned counsel appearing for the respondents.

4. It is contended by the applicant that the post of Junior Maintenance Mechanic and the post of Vocational Instructor are of the same cadre and the duties and responsibilities attached to both the posts are one and same, therefore, the post of Junior Maintenance Mechanic is to be treated at par with Vocational Instructor. Further contention has been advanced that the department has not placed on record true facts before the High Court in W.P. No. 7111/2001 which ultimately lead the denial of his claim of upgradation of Junior Maintenance Mechanic to the post of Vocational Instructor. The department made a false statement in the Writ Petition that Junior Maintenance Mechanic and Vocational Instructor are not equal or similarly placed.

5. Learned counsel appearing for the respondents submits that the applicant filed O.A. No. 501/2013 for identical relief and the said O.A. ended in dismissal on 1.09.2015 and therefore, this O.A. is also liable to be dismissed. A further submission has been made by the respondents that they had not suppressed any material facts before the High Court.

6. It is not in dispute that the applicant earlier filed O.A. No. 501/2013 seeking identical relief and the said O.A. ended in dismissal on 1.09.2015. It is the plea of the applicant that the post of Junior Maintenance Mechanic and the post of Vocational Instructor are of the same cadre and they are inter-changable. The said contention came to be negated by this Court in O.A. No. 501/2013. Though the applicant asserted that the respondents suppressed the material facts before the High Court, which resulted in setting aside the order passed in O.A. No. 426/1998, no substantial material has been placed on record to show that the respondents had not placed true facts before the High Court. Therefore, we find that the applicant does not deserve for any relief in this O.A. and, accordingly, the same is dismissed. There shall be no order as to costs.