

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/01200/2014

HYDERABAD, this the 20th day of October, 2020

Hon'ble Mr. Ashish Kalia, Judl. Member

Hon'ble Mr. B.V. Sudhakar, Admn. Member



1. G. Nageswara Rao S/o G. Murali Krishna Murthy,
Aged 37 years, Occ : High skilled-II,
O/o The Commanding Officer,
INS Eksila, Mulagada Area, Mindi Post,
Visakhapatnam-530 012.

2. P. Visweswara Rao S/o P. Naganna,
Aged 37 years, Occ : High skilled-II,
O/o The Commanding Officer,
INS Eksila, Mulagada Area, Mindi Post,
Visakhapatnam-530 012.

3. K. Naveen Kumar S/o K. A. N. Rao Patnaik,
Aged 34 years, Occ : Skilled,
O/o The Commanding Officer,
INS Eksila, Mulagada Area, Mindi Post,
Visakhapatnam-530 012.

...Applicants

(By Advocate : Mr. K. R. K. V. Prasad)

Vs.

1. Union of India represented by
The Secretary, Ministry of Defence,
Government of India, South Block, New Delhi.

2. The Chief of Naval Staff, Integrated Headquarters, New Delhi.

3. The Flag Officer, Commanding-in-Chief,
Headquarters, Eastern Naval Command,
Visakhapatnam.

4. The Commanding Officer,
INS Eksila, Mulagada Area, Mindi Post,
Visakhapatnam-530 012.

5. M. Rambabu, Occ : HSK-II, Welding Section,
The Commanding Officer, INS Ekasila,
Mulagada Area, Mindi Post, Visakhapatnam-530 012.Respondents

(By Advocate : Mrs. K. Rajitha, Sr. CGSC for RR 1 to 4 &
Dr. P. B. Vijaya Kumar for R-5).

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA has been filed for not conferring the benefit of restructuring grade-wise and conferring the benefit of restructuring trade-wise by clubbing all the trades.

3. Brief facts of the case are that the applicants were appointed in the respondents organization as Tradesman skilled on 29.6.1992 in INA Eksila in Electro Platter trade. On 20.5.2003, respondents ordered restructuring of the Artisan staff from 3-Grade structure of Skilled, Highly Skilled Grade I & II (for short "**HSK**") to 2-Grade structure of Skilled and Highly skilled. However, the restructuring proposed was not implemented. Later, one another restructuring was effected vide order dated 14.6.2010 wherein the 2-Grade structure was expanded to 4-grade structure with a ratio of 45% Skilled, 20.625 % Highly Skilled –II, 20.625% Highly Skilled –I and 13.75% Master Craftsman. Applicants were not granted HSK-II as per the order issued on 24.6.2014 whereas a junior was granted the benefit. Aggrieved, the OA is filed.

4. The contentions of the applicants are that a junior Sri M. Rambabu from the Welder trade was given HSK-II, by not combining the 15 posts in 4th respondents organisation. Applicants represented to implement the policy of restructuring, grade-wise by taking common inter grade seniority published on 3.2.2014 with no fruitful result. Instead, respondents irregularly went ahead with trade-wise restructuring. Such an action is violative of the IHQ letter dated 15.10.2013 and the judgment of the

Hon'ble Madras High Court. Issuing seniority list by merging certain trades on 26.3.2014 claiming that it is in accordance with IHQ letter dated 25.6.2012 is incorrect since the said decision is in divergence with the MOD letter dated 14.6.2010. Splitting trades and issuing separate seniority lists is irregular. Applicants have been put to loss financially and status-wise too and not granting the benefit sought is in violation of Articles 14, 16 & 21 of the Constitution of India. One of the juniors M. Rambabu has been impleaded as Respondent No.5 to the OA.



5. Respondents state that the Ministry of Defence (MOD) vide letter dated 14.6.2010, ordered structuring of the Artisan staff into Skilled with Grade pay of Rs 1900, HSK –II with grade pay of Rs.2400, HSK- I with pay of Rs.2800 and Master Craftsman (MCM) with Grade pay of Rs.4200 in the prescribed ratio. Respondents based on the sanctioned posts, gave details of posts grade-wise in respect of Electro Plater trade and trades other than Electro plating trade at para 6 of the reply. The operative instructions contained in 25.6.2012 of IHQ specified merging of trades with posts numbering less than 5 and such trades were classified as non viable trades. Trades with more than 5 sanctioned posts were termed as viable trades. Accordingly, combined seniority list was published for Painter, Borer, Turner etc trades since they had less than 5 sanctioned posts whereas for Electroplater trade, with more than 5 sanctioned posts, a separate seniority list was issued. Consequently, based on the different seniority lists published, employees eligible were promoted to HSK-I & II grades w.e.f. 1.1.2006 as a one time measure. Mr. M. Rambabu, Welder belongs to a different trade with a different seniority and hence applicants cannot

compare themselves with this employee. Trade wise seniority lists prepared before and after restructuring were furnished on 7.8.2014.

6. Heard both the counsel and perused the pleadings on record.



7. I. Respondents have initially proposed restructuring of the artisan trades on 20.5.2003 from 3 grades of Skilled, HSK-I & II into 2 grades of Skilled and HSK. However, without implementing the proposed restructuring, respondents took a policy initiative of restructuring the Artisan grades into 4 grades of Skilled, HSK –I & II and MCM with a certain ratio of posts of the sanctioned strength ascribed to each grade. Respondents thereafter classified the trades into viable trades with sanctioned posts of more than 5 and non viable trades with less than 5 sanctioned posts. Trades like Painter, Borer, Turner, Welder, etc were classified as non-viable trades and a combined seniority list was issued whereas Electro Platter, classified as a viable trade, a separate seniority list was issued. Based on the seniority lists, thus issued, benefit of placing the eligible employees in HSK-II & I grades due to the policy of restructuring was extended. Consequently, a junior Mr. M. Rambabu, 5th respondent, belonging to the Welder trade, who figured in the combined seniority list, was placed in HSK Grade –II. This is the source of the dispute, in the sense that, juniors have been favoured in granting benefits of restructuring.

II. Promotions or any benefits that are to be extended to the employees are to be generally based on the Principle of seniority. Any policy evolved would take care of this aspect since a senior with more experience and exposure to the working of the organisation without any adverse remarks is always an asset and therefore, the reason for preferring

seniors over juniors, to hold responsible positions. HSK-II & I are responsible positions which ought to have been given to the seniors. In the process of implementing the policy of restructuring, the Right to equality under Article 14 of the Constitution, has thus been denied to the applicants.



As a policy though restructuring cannot be questioned, yet the classification of trades into viable and non viable trades is something which the respondents need to think over. It is not understood in what way the respondents' organisation will gain by such classification in terms of work efficiency. Any policy change should serve the objective it has aimed at. Was it to improve career prospects or was it to organise trades to enhance productivity! Reply statement is devoid of any submission in this respect. Be that as it may, any policy objective would not aim at de-motivating the employees or lower their morale by introducing measures which defy the time tested principle of seniority. The restructuring attempted by the respondents is a welcome measure and it has to reverberate in accordance with the principle of equality enshrined in the Constitution of India.

III. Applicants have cited the judgment of the Hon'ble Madras High Court dated 06.08.2008 passed in W.P. No.6878 of 2008 and M.P. Nos.1 and 2 of 2008 to further their cause, the relevant portions of the judgment are extracted here under:

“10. If such contentions were to be accepted, it may so happen that where the number of posts in a grade of Highly Skilled would be less than four, a person occupying such post of Highly Skilled Grade I in a particular grade would be deprived of being promoted as Master Craftsman, even though juniors to him in other trades, merely because of more numbers in such trade, would be promoted as Master Craftsman. Such a narrow interpretation as propounded by the petitioners would defeat the very object of the Recommendations of the Vth Pay Commission as well as the order which was issued in the communication dated 15.10.1984, as per the Recommendation of the



Anomalies Committee. It is also to be noticed in this context that, even though in the Communication dated 21.9.1982 it was indicated that the number of posts of Master Craftsman in each trade shall be upto 10%, the Anomaly Committee reconsidered the matter and a subsequent order dated 15.10.1984 was issued, wherein it was specifically and categorically indicated that the percentage of the Highly Skilled Grade I, the Highly Skilled Grade II and Skilled Grade in the ratio of 15:20:65 is to be given to the trades with viable number of jobs and if there are non-viable trades, those should be grouped together for the purpose of giving the above benefit. In other words, it was clearly intended that in case the number of posts in a particular trade was above the viable number, such posts could be worked out and, on the other hand, if the number of posts in the particular trade was non-viable in the sense that only one or few were available, which could not be divided by 10, all such non-viable trades were required to be grouped together so that necessary percentage could be worked out and the persons could be fitted against the particular grade such as the Highly Skilled Grade I, the Highly Skilled Grade II or Skilled Grade.

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13. Learned counsel for the petitioners has also relied upon an earlier decision passed by the Tribunal in O.A.No.877 of 2004. Such decision has been distinguished under the impugned judgment by the Tribunal. That apart, we are unable to accept the basis of such earlier decision as, in our considered opinion, such a narrow and restricted interpretation is likely to affect many senior Highly Skilled artisans on the basis of mere fortuitous circumstance that number of employees of his grade and trade was less than four, making it impossible to work out 25% of such number. Law is well settled that a provision is required to be interpreted so as to avoid any anomalous situation so as to avoid the possibility of infringement of right to equality.”

From the above verdict, it is clear that the applicants due to fortuitous circumstance of belonging to the viable trade of Electro Platter and therefore, denying them placement in HSK-II is unfair. Albeit, due to a policy measure, even then the policy too has to operate within the limits of law. To be candid, the resultant effect of restructuring would be that juniors would be having better opportunities to rise in the career ladder than seniors who would have been better qualified with the requisite domain expertise. An approach of this nature would go against the fundamental principles of service law relating to seniority, promotion etc.

IV. However, since restructuring being a policy matter, the Tribunal, though would not like to interfere, but, having come across an infringement of Article 14 of the Constitution and in the light of the Hon'ble Madras High Court judgment cited supra, would like to suggest the following alternatives, to get over the impasse that arose due to restructuring:



- i. Earmark certain percentage of posts in HSK-II & I and MCM, trade-wise depending on the sanctioned strength of the respective trades and effect placements, or
- ii. Issue combined seniority list for all the trades together and effect placements in higher grades as per seniority.

An approach on the above basis would be a win-win situation since the respondents' organization will be bereft of genuine grievances of the employees and the latter would be contended that their cause has been justifiably resolved inviting higher organizational commitment from them. It is well known that disgruntled employees would be symbols of inefficiency since inwardly they would not put their best for the survival and growth of the organisation. Inefficiency is contagious and it has to be handled at the earliest. Respondents are from the defence establishment and they know this better than anyone else.

V. Hence, keeping the above in view, we direct the 2nd respondent to examine the scope of modifying the restructuring policy by inducting the elements of importance as stated at para IV above, so that employees will be rest assured that their grievance has been dealt with, in accordance with law. Thereafter, depending on the decision taken, the grievance of the

applicants be accordingly responded to. Time period calendared to implement the judgment is 7 months. The reason for giving a long period to implement the order is because the order proposes a meaningful policy change and involves drawing up of the seniority list of the employees of different trades, who have to be given reasonable opportunity to express their views, if any, and thereafter, finalise the seniority as deemed fit.



VI. With the above direction, the OA is disposed, with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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