



**Central Administrative Tribunal
Mumbai Bench, Mumbai**

**O.A. No. 210/155/2020
with
MA No. 210/272/2020
MA No. 210/188/2020**

This the 29th day of October, 2020

(Through Video Conferencing)

**Hon'ble Mr. A.K. Bishnoi, Member (A)
Hon'ble Mr. R.N. Singh, Member (J)**

1. Waman Pochanna Kanampalliwar,
Age 53 years, working as Junior Technical Officer (S),
CQA (ME), Aundh Road,
Khadki, Pune 411 020, residing at
Qtr. No. P-8/17, CQA (ME)
Residential Complex, Aundh Camp, Pune 411 027.
2. Yuvaraj Vasudeo Narole,
Age 53 years, working as Junior Technical Officer (S),
CQA (ME), Aundh Road, Khadki, Pune 411 020,
Residing at : Qtr. No. P-6/5, Type-III, CQA (ME)
Residential Complex, Aundh Camp
Pune 411 027.

...Applicants

(By Advocate: Shri V.A. Nargrani)

VERSUS

1. Union of India,
Through the Secretary,
Ministry of Defence,
South Block,
New Delhi 110 001.
2. The Director General of Quality Assurance,



Department of Defence Production,
[DGQA/Adm-7B],
Nirman Bhawan PO,
New Delhi 110 011.

3. The Additional DGQA,
DQA (M&E),
Department of Defence Production,
(DGQA/M&E-5)
Government of India, Min. of Defence,
Po Ichapur-Nawabganj
Dist.24 Parganas (North)
West Bengal 743144.
4. The Controller,
CQA (ME),
Aundh Road, Khadki,
Pune 411 020.

...Respondents

(By Advocate: Mrs. Neeta V. Masurkar)

ORDER (Oral)

Hon'ble Mr. R.N. Singh, Member (J):

In the present application, filed u/s 19 of the Administrative Tribunal Act, 1985, the applicants, two in number, have challenged the order dated 18.12.2019 (Annexure A-1) vide which the respondents have put the name of the applicants in the list of eligible officers, i.e., Junior Technical Officer (Scientific) {in short, JTO(S)}, who have completed the prescribed tenure as on 01.07.2020 and are due for transfer under RTP. The applicants have also



challenged the order dated 23.01.2020 (Annexure A-2) vide which the applicants' representations against the aforesaid impugned order dated 18.12.2019, have been rejected.

2. Learned counsel for the applicants submits that the grievances of the applicants are identical and they have prayed for similar reliefs. Accordingly, they have filed MA No. 210/188/2020, seeking permission to file the aforesaid OA jointly.

For the reasons given in the said MA and keeping in view no objection from the learned counsel for the respondents, MA No. 210/188/2020 is allowed.

3. The brief facts leading to the present application may be noted as under: -

(a) the applicants have been working as Junior Technical Officer (Scientific) under the respondents and the said post belongs to Group 'B'. It is an admitted case that the applicants have completed more than five years in the post of Junior Technical Scale at the CQA (ME), Pune and they are having All India Transfer Liability.



(b) Learned counsel for the applicants submits that the applicants have challenged the impugned orders only on the ground that the same have been passed, violating the respondents' own policy on the subject. In this regard, he refers to para 2 of the policy dated 24.11.2016 (Annexure A-3) on the subject "Posting/Transfer Policy in respect of Group 'B' (Gazetted and Non-Gazetted) officials of DGQA, which reads as under: -

"2. The tenure of all Group B officials in a post will normally be limited to 03 years. However, the tenure of an official in a station will be 07 years, inclusive of the period of service rendered in lower grade, if any, in the same station."

(c) The said policy is admittedly revised vide respondents' letter dated 10.02.2017 (Annexure A-4) and the relevant paragraphs of the same reads as under; -

S. No.	Relevant para of order No. A/96995/RTP/DGQA/Adm-7B/D(QA)/2016 dt. 24.11.2016	Amended as under
01.	Para 2: The tenure of all Gp 'B' officials in a post will normally be limited to 03 years.	Para 2: The tenure of all Gp 'B' officials in a post will normally be limited to 05 years. Rest of the para 2 will remain unchanged.

(d) Learned counsel for the applicant submits that though the applicants have completed more than 5 years as JTO



(Scientific) at the said station, however, they have not completed 7 years and, therefore, aggrieved by the impugned eligibility list dated 19.12.2019, they have made representations before the respondents. However, the same are rejected.

(e) Learned counsel for the applicants argued that it is immaterial whether the applicants have completed five years or more in the said post of JTO (Scientific) for finding place in the list of eligible officers for being transferred till they have completed the tenure at that station for 7 years. Mr. Nagrani, learned counsel for the applicants argued that the said policy has been implemented differently in the case of other divisions of the respondents.

4. In response to the notice received from this Tribunal, respondents have filed counter reply. With the assistance of the counter reply and the pleadings on record, Mrs. Neeta V. Masurkar, learned counsel for the respondents argued that it is misconceived at the end of the applicants to argue that the applicants will become eligible after completion of 7 years of tenure at station under reference. She further adds that para 2 of the policy provides that tenure of all the



officials in the post will be limited to five years. However, in case tenure of such official is less than five years in the post, it is required to be seen as to whether such officials have completed 7 years inclusive of period of service rendered in the lower grade, if any, in the same station. She argues that once the applicants have admittedly completed more than five years of service in the post of JTO (Scientific), a Group 'B' post at the said station, respondents are not required to see as to whether they have completed 7 years or not, in view of extant policy. To substantiate such submission, she further argues that this policy has uniformly been applied in respect of all the Group 'B' officials under the respondents.

In respect of all the JTO (Scientific), she invites our attention to the enclosure of the list of the officials annexed with the impugned order dated 18.12.2019, in which the names of the applicants, herein, figure at Sr. Nos. 2 & 3.

5. By referring to the cases of various officials appearing in the said list, learned counsel for the respondents has demonstrated that the respondents have considered as to whether Group 'B' officials have completed five years of



tenure in a particular post or not in a station and in case, the officials have completed five years of tenure in the same post and/or where they have completed seven years of tenure in the said station by clubbing their services in the lower grade as well. She has also invited our attention to Para 4 of the impugned order dated 18.12.2019 (Annexure A-1) which reads as under: -

“4. While submitting the three choices of station for posting, the followings are to be kept in mind: -

(a) Establishments located at the same station will be treated as one choice only.

(b) One of the choices station should be hard station, if not served till date in hard station by the official (for ME discipline).

(c) If no choice station is received from the eligible officers within stipulated period, it will be presumed that the officer is willing to serve any of the stations where vacancy for the post exists.”

She submits that if at all the applicants were of the view that they were required to be accommodated at the same station even in a different position in response to requirement of Para 4 of the impugned order dated 18.12.2019, the applicants should have given their option of three choices of station of posting to which applicants have admittedly not given. She has also invited our attention to the impugned order dated 19.12.2019, wherein



again the applicants have been advised to submit the three choices of station of postings, as advised to them earlier vide impugned order dated 18.12.2019.

6. We have heard the learned counsel for the parties and we have also perused the pleadings on record. We have also considered the submissions made by the learned counsels for the parties.

7. Once it is an admitted case that the only ground raised to challenge the impugned orders is that the application of policy and interpretation of the policy of the respondents, referred to herein above, in the facts and circumstances of the case, we are not required to consider any other aspect nor has any other ground been argued.

8. According to para 2 of the aforesaid policy under reference, it is evident that the para 2 contains two situations. First situation is whether Group 'B' officials have completed five years of tenure in a post at a particular station to become eligible for transfer and the second situation is, if Group 'B' officials have not completed five years in a post at a station, it is required to be seen as to



whether Group 'B' officials have completed seven years of service at a particular station by clubbing his/her services in a Group 'B' post with that in a lower grade or not.

9. The applicants have admittedly fulfilled the first criteria, i.e., they have completed five years of service in the post of JTO (Scientific), and such policy has been applied by the respondents uniformly. Accordingly, we are of the considered view that the policy under reference has rightly been applied by the respondents while passing the impugned orders.

10. With regard to the arguments on behalf of applicants, that the respondents could have considered them in a different position at the same station, it is an admitted case of the applicants that in response to the requirement made in the impugned order dated 18.12.2019, they have not given the three choices of posting. The respondents have rightly understood that the applicants can be posted anywhere.

11. Learned counsel for the applicants has repeatedly stated that the applicants have met with the requirement of



Paras 3 and 4 of the impugned order dated 18.12.2019 (Annexure A-1) by giving a representation. We have perused the representation of the applicants and we find that three choices of posting have not been given by the applicants therein as well.

12. Once the applicants are admittedly having All India Transfer liability and vide impugned orders, neither their service conditions have adversely been affected nor the impugned orders have been passed due to *mala fide* nor in violation of any statutory provision, in view of the settled law, we do not find any.

13. During the course of dictating this order, by referring to Annexure A-8 of the OA, learned counsel for the applicants argue that for other establishments under Respondent No. 1, the respondents have adopted different criteria and, therefore, the impugned orders are result of discrimination. We have perused Annexure A-8 as well and we are of the considered view that once, the division concerned in which the applicants are posted, the policy under reference has uniformly been applied, we are not



required to go into the matter as to what has happened in the other establishments of the respondents in the matter of transfer and posting. Accordingly, we are of considered view that there is no case of discrimination.

14. Accordingly, we are of the considered view that this case is devoid of any merit. In view of the aforesaid facts and discussion, the OA is dismissed. MA No. 272/2020 also stands dismissed. However, in the facts and circumstances of the case, no order as to costs.

(R.N. Singh)
Member (J)

(A.K. Bishnoi)
Member (A)

/pinky/akshaya/

