

(5)

In the Central Administrative Tribunal
Principal Bench: New Delhi

OA No.898/1987

Date of decision: 28.01.1993.

Shri A.S. Kochar & Others

...Petitioners

Versus

Union of India through its
Secretary, Ministry of Defence, Army
Headquarters & Others

...Respondents

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman
The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioners

Shri S.C. Luthra, Counsel.

For the respondents

Mrs. Raj Kumari Chopra, Counsel.

Judgement(Oral)
(Hon'ble Mr. Justice V.S. Malimath, Chairman)

The principal grievance of the petitioners, which
we have been able to gather with great difficulty after considerable
debate is that the impugned order (Annexure-A) dated 19.12.1986
is made in violation of the order dated 17.5.1984, produced
as Appendix-J along with the reply. In the year 1977 an order
was passed for upgrading 20% of the Group 'C' and Group 'D'
posts for granting selection grade scales of pay with effect
from 1.8.1976. The entire controversy that has arisen in this
case is in regard to the manner and method of giving effect
to the said decision. Several orders have been passed from
time to time, which, it is unnecessary to advert to. Pointed
attention was, however, drawn to the order in regard to allo-
cation of the selection grade posts made as per order dated
16.9.1983 produced along with the reply as Annexure-H. We
do not propose to advert to the same further for the reason
that the said order is superseded by the order dated 17.5.1984
(Annexure-J).

2. The impugned order (Annexure-A) which is relevant for our purpose deals with the grant of selection grade to seven Telecom Mechanics, whose names have been furnished in paragraph-4 of the same. The dates with effect from which the selection grades were originally granted as also the revised dates have been stated therein. The persons at serial Nos. 5 and 6 Shri A.S. Kochhar and Shri B.L. Arya are petitioners No. 1 and 2 in this case. The names of the other two petitioners are not to be found therein, meaning thereby that they have not been given the benefit of selection grade. If what has been done as per Annexure-A is consistent with the order dated 17.5.1984 (Annexure-J) the petitioners cannot make any justifiable grievance.

3. We shall, therefore, first examine as to what are the highlights of the order dated 17.5.1984. The said order states that the allotment of the selection grade posts is made commandwise, as stated in Appendix-A to the same. Unfortunately, neither the respondents nor the petitioners have placed before us the copy of the said Appendix-A. One thing that is clear from the perusal of the said order is that the primary allotment of the selection grade posts is made commandwise and leaving it to the authorities incharge of the command to make sub-allotment of those posts on unitwise basis. There is no controversy in regard to the number of posts allocated on commandwise basis. The grievance is in regard to the allocation of the posts on unitwise basis and the method or procedure followed in the matter of granting selection grade. If the impugned order has been made granting selection grade to persons belonging to the particular unit for which a particular number of selection grade posts are sanctioned, taking into consideration seniority and other relevant factors, there would be no grievance which would merit examination. We have, therefore, to ascertain as to whether the impugned order Annexure-A by which seven persons belonging to the cadre of Telecom Mechanics of the Inspection

✓ Unit have been sanctioned selection grade is consistent

with the order of 17.5.1984. Whereas the learned counsel for the respondents submits that the impugned order has been made consistent with the said order, learned counsel for the petitioner asserts to the contrary.

4. In their reply filed by the respondents, it is stated in paragraph-2 as follows:-

"Selection grade posts have been introduced in the Corps of EME on Aug 76 vide Govt of India Min of Def letter No.6697/PC-3/EME Civ/882/D(Civ-I) dated 06 Feb 79. The authority who controls the selection grade posts in Defence is AG Branch, Army Headquarters. AG Br Army Headquarters is allotting these posts to the Head of Deptt for sub-allotting to their junior formation like HQ Tech Gp EME and Command Headquarters. HQ Tech GP EME and Command HQs is further allotting these vacancies at the ratio of 20% of units authorisation to their sub units placed under their command and control for further distribution to their personnel on seniority basis. Thus these posts are purely controlled by the units. The selection grade post is having no connection with the recruitment qualifications and terms of engagement."

In paragraph-6 of the reply it is stated that for allotment of selection grade posts to personnel of DET TGs, HQ Tech Gp EME is maintaining separate seniority roll for their personnel and allotting these posts strictly on seniority basis irrespective of Dets. It is further stated that since the petitioners are juniors in their seniority roll maintained by HQ TG EME, they have not been given selection grade posts and that the question of their being superseded does not therefore, arise. It is stated in paragraph-8 that the persons mentioned in the petition alleging that they are juniors to the petitioners who have been given selection grade posts by their units as per the seniority maintained by them. The question of such comparison does not arise as those persons are serving in other units to which the petitioners do not belong. In paragraph-11 of the reply it is stated that though Telecom Mechanics working in all EME Units are under the competent authority of Director General of EME, they are known as "Unit controlled" and hence their final disciplinary or administrative authority is OC/Commandant Units. It is stated being unit controlled, their seniority roll should

also be maintained unitwise. It would be of importance to extract paragraph-12 of the reply which reads as follows:-

"TCMs held in Stn Wksps do not come under respondent No.3. Thus seniority in various Wksps is drawn independently based on the service rendered in respective unit. Though the work is identical, personnel belonging to Technical Group and Det TGs are being paid 'Adhoc bonus', whereas the personnel of other establishments (including EDW EME) are being paid 'Productivity Linked Bonus' which shows that the two establishments cannot be merged for all intents and purpose."

It is emphasized in paragraph-18 that Det TG (14) is an independent unit controlled by an independent Resident Inspector and hence merging of their seniority with the employees of an another independent unit is not in order. The clear effect of the averments in the reply is that the allocation as well as selection for granting selection grade is made unitwise. The unit in this case is the one under the control of respondent No.3, Commander, Technical Group EME, A.H.Q. Delhi Cantt. All the personnel belonging to TCMs of the Inspection unit come under one unit is the stand taken by the respondents. Though the petitioners do not agree about this position, in the absence of any satisfactory material placed by the petitioners, we find it difficult to reject the version of Major D.S. Tuls, a responsible officer who has sworn to the reply. Thus it follows that all the Telecom Mechanics under the control of respondent No.3 have been treated as one unit for the purpose of allocation and promotion to selection grade. As all of them come under the control of respondent No.3, there is nothing arbitrary in the personnel coming under him forming one unit for the purpose of allocation and promotion to the selection grade. We are, therefore, satisfied on the material placed before us that the petitioners have failed to establish that the impugned order (Annexure-A) has been made in violation of the direction contained in

order dated 17.5.1984. What has been done in regard to the filling up of the selection grade posts in respect of other units need not engage our attention though arguments were advanced in this behalf by the learned counsel for the petitioners for the reason that any error committed in respect of other units would not enable the petitioners to secure any relief. The petitioners can get relief only if the allocation and filling up of the selection grade posts so far as the unit to which they belong is concerned is made consistent with the relevant order dated 17.5.1984. Hence, we have considered it unnecessary to examine as to whether the petitioners are right in submitting that the order dated 16.9.83 (Annexure-H) though vacated by the subsequent order dated 17.5.1984 has been given effect to in respect of other units, whereas the petitioners have been treated by applying the order of 17.5.1984. As what holds the field is the order of 17.5.1984, if the petitioners' cases have been considered on the basis of the said order and if two of the petitioners were not granted selection grade on the ground that they did not come within the range of consideration, it is not possible to interfere in this case.

5. For the reasons stated above, this O.A. fails and is dismissed. No costs.

Saligra
(I.K. RASGOTRA)
MEMBER(A)

Malimath
(V.S. MALIMATH)
CHAIRMAN

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