

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/00356/2015

HYDERABAD, this the 6th day of April, 2021



**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**

D.Srinivasa Vara Prasad S/o Padmanabhaiah,
Aged about 42 years, Occ : Senior Technician,
Southern Region Farm Machinery Training And
Testing Institute, (S.R.F.M.T and T.I),
Garladinne, Ananthapur District.

...Applicant

(By Advocate : Mr.M.Venkanna)

Vs.

1. The Union of India represented by

Its Secretary, Government of India,
Ministry of Agriculture,
Department of Agriculture & Cooperation,
Mechanization & Technology Division,
Krishi Bhawan, New Delhi – 110001.

2. The Director, Southern Region Farm,

Mechintry Training and Testing Institute,
(S.R.F.M.T and T.I.),
Garla Dinne, Ananthapur District.Respondents

(By Advocate : Mr. V. Vinod Kumar, Sr. CGSC)

ORAL ORDER**(As per Hon'ble Mr.B.V.Sudhakar,Administrative Member)****Through Video Conferencing:**

2. The Original Application is filed with regard to quashing and setting aside the impugned recruitment rules vide Ministry of Agriculture, Department of Agriculture and Cooperation, Farm Machinery Training and Testing Institute, Technical, Group C Posts Recruitment Rules, 2014 published vide G.S.R.902(E) Dated 16-12-2014 along with common nomenclature proceedings vide Memo No.13-3/2021-M 7 T (Admn.), dated 02.04.2013 being illegal, arbitrary and contrary to the legitimate expectations of the applicant and violative of the Articles 14 and 16 of the Constitution of India and consequently to direct the Respondents to effect the promotions as per the erstwhile Recruitment Rules of 2007.

3. The brief facts of the case are that the applicant has been appointed as Technician (previously known as Tube Well Operator) in the respondents organization on 20.02.1997 with Grade Pay of Rs.1900/-. Thereafter, he was appointed as Sr. Technician by direct selection on 18.06.2009 with Grade Pay of Rs.2400/-. The seniority list of the Sr. Technicians was issued on 01.01.2012 including the Sr. Technicians from the Electrician Grade I, thereby the cadre strength of Senior Technicians was increased from 5 to 6. The applicant submitted a representation on 30.04.2013 indicating that it would be appropriate to have different types of groups like Senior Technician (Mechanical) for Technicians and Senior Technician (Electrical) for Electrician Grade-I etc. The suggestion was given based on the method

of grouping adopted in other departments like CPWD, Railways, etc., wherein grouping is done based on the commonality of the functions discharged. For eg. Junior Engineer (Civil), Junior Engineer (Mechanical) and Junior Engineer (Electrical) etc. Despite the suggestion, the Respondents have gone ahead with cadre restructuring. Aggrieved over the same, this OA has been filed.



4. The contentions of the applicant, are that the Respondents have gone ahead and changed the Recruitment Rules wherein the Educational Qualifications have been enhanced without taking into confidence the stakeholders. The applicant states that the change of Recruitment Rules adversely affects the service conditions of the applicant and therefore, the Respondents should have taken the employees into confidence before making the changes. This aspect was highlighted by the learned counsel for the applicant while making the submissions. The Respondents vide their memo dated 25.08.2014 have stated that the restructuring may be advantageous to some and disadvantageous to some other. The Respondents, while including the Electrical grade, have not thought of the future promotions. In the Respondents organization, there is no post of Foreman Grade for the electrician. Therefore, the Electrician Grade I post holder will compete with the other Senior Technicians like the applicant herein for the next promotion post of Training Assistant / Technical Assistant, thereby narrowing the promotional opportunities. The Respondents vide proceedings dated 14.12.2012 have granted promotions of Training Assistant /Technical Assistant to four employees out of whom Mrs. Bhargavi only possessed the qualification in Engineering in Agriculture and

whereas all the three others have possessed only ITI qualification.

5. Respondents in their reply statement state that they have taken a policy decision to undertake cadre restructuring based on DoPT Memo dated 10.02.2011. The restructuring was effected in the Farm Machinery Training and Testing Institutes located at Budni, Hisar, Anantapur and Assam by clubbing the posts with identical pay scales and duties. The restructuring, is largely beneficial but for a few employees. However the employees were assured that their financial benefits will be taken care of by granting eligible MACP (Modified Assured Career Progression) benefits. The cadre restructuring was also undertaken in the non-technical cadre in the Group-D and Group-B cadres. Respondents have increased the Educational Qualifications, since modern technology has been and being inducted in the Organization.

The applicant has filed a rejoinder, wherein he states that the Respondents have combined Trades of different functionalities like Carpentry, Electrical and Mechanical, which is incorrect. There should be a separate seniority list maintained locally in order to promote the employees locally when required. After amalgamation, the Respondents ought to have provided the requisite Training so that employees could cope up with the new work. The applicant was expecting early promotion and his legitimate expectation was deprived. Stating that the MACP takes care of the financial interests cannot be a correct averment, since the employees are not only interested in financial benefits but also increase in status, job satisfaction, recognition and scope to discharge duties by invoking statutory and administrative powers. Whenever an administrative decision is taken, the



authorities ought to have put on notice those concerned in accordance with the principles of natural justice. Even if one employee is affected, it is the responsibility of the Respondents to allay the difficulty. The applicant is not in a position to obtain higher educational qualification and therefore he will have to suffer throughout his career.



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

7 (i). The dispute is about the restructuring of both Technical and non- Technical cadres in the Respondents organization. The Respondents have undertaken cadre restructuring based on DoPT Memo dated 10.02.2011, since cadre restructuring will widen the scope of promotions in the Organization. It is possible that a large number of employees may get the benefit and some may have difficulty in getting the promotions as per their expectations. Nevertheless the organization will benefit in the process, since it will usher in system efficiency and enhance promotional opportunities to many. This aspect is not only to be understood by the Organization's management but also by the employees in the Respondent's organization as well.

(ii) Along with the cadre restructuring, Respondents revised the Recruitment Rules after consulting UPSC / DoPT and have been approved by the Ministry. Revised Recruitment Rules specify higher qualification for the post of Technical Assistant which is the next higher post to Senior Technician. The latest Recruitment Rules call for an Engineering Degree or a Diploma in Engineering. Earlier Recruitment Rules have not specified

this qualification. The applicant is aggrieved that these changed education qualification would affect his promotional opportunities. In the rejoinder he states that it will be difficult to acquire the higher educational qualifications and therefore his career would be effected adversely. The Respondents submit that, to cope up with the advanced procedures and to adopt new technology, there has to be an increase in the educational qualifications so that the employees would be better equipped to discharge the duties that they are called upon to discharge. We agree and hence the need for Higher Educational Qualifications cannot be questioned.

iii. Respondents have also made it clear that the merger of non-Technical cadres have also been undertaken along with Technical posts with details in the reply statement. The applicant has submitted that different trades with dissimilar functionalities like Carpenter, Electrician and Mechanic have been grouped together, which is improper. He has cited the case of Railways where JE (Civil), JE (Mechanical) and JE (Electrical) groups were separately formed. However the applicant should be aware that, the Ministry of Defence, has clubbed dissimilar trades like Carpenter, Electrician, etc to augment promotional opportunities. In a small cadre the opportunities to rise in the career is limited and therefore merger of small cadres is done in the interest of the employees. For eg. the details given for the Anantapur Unit of the respondents organization, as under, post and pre cadre restructuring, will affirm the above observation.

Name(s) & No. of posts at SRFMTTI, Anantapur before merger/clubbing/re-designation	Pay Scale	Revised Designation in the new RRs	Sanctioned Strength					Total strength in the new RRs
			CRF M,T TI	NRF M,T TI	SRFM TTI, Anantapur	NERFM TTI, Assam	DAC. Hqrs	
Agricultura	15	PB-2	Agricultural	5	4	3	2	1
								15



1 Engineer	(com mon to all FMT TIs)	GP Rs.46 00	Engineer						
Senior Technical Assistant	2	PB-2 GP Rs.42 00	Senior Technical Assistant	9	6	2	1	0	18
Training Assistant	5	PB-1 GP Rs.28 00	Technical Assistant	6	5	5	3	0	19
Technician	5	PB-1 GP Rs.24 00	Senior Technician	21	15	6	5	0	47

As can be seen from the table, the number of posts in the cadres higher to the Sr. Technician post are increased and obviously the promotional opportunities get amplified. The new Recruitment Rules were notified on 16.12.2014 to bring in efficacy in the organization. Organizational interests reign supreme over individual interests. The entire pleading in the OA is about the applicant's grievance ignoring the windfall gains to the organization and to a large number of other employees due to cadre restructuring.

iv. In fact the challenge mounted by the applicant in regard to the cadre restructuring is a policy matter wherein which the Tribunal has a narrow scope to intervene as observed by the Hon'ble Uttarakhand High Court in **Prakash Chandra vs State Of Uttarakhand And Others** on 10 October, 2019 in Writ Petition (S/B) No. 467 of 2019 by relying on a catena of judgments of the Hon'ble Supreme Court, as under :

9. Even otherwise, what the petitioner seeks is for a mandamus to be issued to the State Government to amend the 2007 Rules. While the High Court, undoubtedly, has the power to strike down Rules, if they fall foul of Part-III of the Constitution of India, that would not justify the High Court taking upon itself the task of amending Rule 7 of the 2007 Rules or to issue a mandamus to the State Government to do so.



Legislative power is exercised by the legislature directly or, subject to certain conditions, may be exercised by some other authority on such a power being delegated to them. But exercise of that power, whether by the legislature or by its delegate, is an exercise of a legislative power. The fact that the power was delegated to the executive does not convert that power into an executive or administrative power. No court can issue a mandate to a legislature to enact a particular law. Similarly no court can direct a subordinate legislative body to enact or not to enact a law which it may be competent to enact. (Supreme Court Employees' Welfare Association v. Union of India: AIR 1990 SC 334; State of J&K v. A.R. Zakki & others: AIR 1992 SCC 1546; State of Andhra Pradesh v. T. Gopalakrishna Murthi and Ors: AIR 1976 SC 123; Mangalam Organics Ltd. vs. Union of India: (2017) 7 SCC 221 and Narinder Chand Hem Raj v. Lt. Governor, Administrator, Union Territory Himachal Pradesh: AIR 1971 SC 2399; Dhananjay Verma vs. State of Uttarakhand & others: Full Bench judgment in Writ Petition (S/B) No.45 of 2014 dated 21.05.2019).

10. While it has the power to strike down a law on the ground of want of authority, this Court would not sit in appeal over the policy of the State Legislature in enacting a law. [Rusom Cavasiee Cooper v. Union of India: (1970) 1 SCC 248]. Just as it cannot direct a legislature to enact a particular law, (Supreme Court Employees' Welfare Association v. Union of India: AIR 1990 SC 334), the High Court, under Article 226 of the Constitution of India, cannot direct the Executive to exercise power by way of subordinate Legislation, pursuant to the power delegated by the Legislature to enact a law, in a particular manner. (Indian Soaps and Toiletries Makers Association vs. Ozair Husain and Ors: (2013) 3 SCC 641; Dhananjay Verma vs. State of Uttarakhand & others: Full Bench judgment in Writ Petition (S/B) No.45 of 2014 dated 21.05.2019).

11. It is not within the domain of the Court to legislate. The Courts interpret the law, and have the jurisdiction to declare the law unconstitutional. But, the courts are not to plunge into policy making by adding something to the policy by issuing a writ of mandamus. (Census Commissioner and Ors. v. R. Krishnamurthy: (2015) 2 SCC 796 and Mangalam Organics Ltd. vs. Union of India: (2017) 7 SCC 221). A writ of Mandamus cannot be issued to the Legislature to enact a particular law, or to the Rule making authority to make rules in a particular manner or even to the Government to frame a policy. (Supreme Court Employees' Welfare Association v. Union of India: AIR 1990 SC 334; State of J&K v. A.R. Zakki & others: AIR 1992 SCC 1546; State of Andhra Pradesh v. T. Gopalakrishna Murthi and Ors: AIR 1976 SC 123; Mangalam Organics Ltd. vs. Union of India: (2017) 7 SCC 221 and Narinder Chand Hem Raj v. Lt. Governor, Administrator, Union Territory Himachal Pradesh: AIR 1971 SC 2399; Dhananjay Verma vs. State of Uttarakhand & others: Full Bench judgment in Writ Petition (S/B) No.45 of 2014 dated 21.05.2019). Since increase in the upper age limit from 35 to 42 years can only be made by an amendment to the 2007 Rules, which power is legislative in character, the relief which the petitioner seeks, for a mandamus to enhance the upper age limit from 35 to 42 years, cannot be granted.

The cadre restructure is one such policy matter of the respondents, where in the Tribunal cannot issue directions as sought for by the applicant. In view of the aforesaid circumstances, we do not find any merit in the OA. Hence the Original Application is dismissed with no order as to costs.

(B.V.SUDHAKAR) (ASHISH KALIA)
ADMINISTRATIVE MEMBER **JUDICIAL MEMBER**