

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH.

O.A.No.640 of 1987.

Asad Ullah Beg.....Applicant.

Versus

Union of India & 7 othersRespondents.

Hon'ble Mr.Justice U.C.Srivastava, VC,

Hon'ble Mr.K.Obayya, A.M.

(By Hon'ble Mr.Justice U.C.Srivastava,VC)

By means of this application, the applicant has challenged the decision of Government of India, Ministry of Defence dated 15.10.84 by which three-grade-structure policy for technical trades as skilled, High skilled Grade II and High skilled Grade I in pay scale of 260-400, 330-480 and 380-560 for 23 trades and non-available trades grouped together shall be affected w.e.f. 15.10.84 but the policy has been implemented to only six trades. The applicant is the Trade Line-man and was promoted to Cable Jointer/Armature Winder/Electrician/Instrument Repairer and further ^{as} the Armature Winder/Electrician/Instrument Repairer in next higher Grade of Charge, Electrician under the Old Promotion Rule and since the Electrician have been inducted into the newly created three-grade-structure policy and the remaining other sister trades like Armature Winder /Instrument Repairer/Cable Jointer left in the old Scheme with the result that the Electricians have further been promoted to the Grade of Charge Electrician blocking completely the applicant trade which caused irreparable injury to the applicant.

2. The respondents have tried to resist the claim of the applicant stating that it relates to the policy decision and as such the applicant cannot

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challenge the same. According to them, the common category for Grade III structure has to be decided by the Head of the Department and not by the Head of the Unit and the applicant is not entitled to be promoted as highly skilled Grade II since his post on which he was working, does not come under the policy. As per old Recruitment Rules, Electrician, Armature Winder and Repairer having three years' service and qualified in the trade-test were eligible to the post of Charge Electrician but in pursuance of the policy laid down by the Government of India vide letter dated 15.10.84 in the three-grade structure policy the post of Armature Winder was not included in the list of eligible categories for promotion and as such the applicant was not entitled or eligible for promotion to the post of highly skilled Grade II or post of Charge-Electrician.

3. The fact is that the Armature Winder is a trade similarly situated at par with Electricians and both are ~~the~~ emanating from the common Feeder Trade i.e. Line man and were at par in the old promotion rule. Thus, according to the applicant, he was a Line man and was also entitled to the promotional post but the three-grade-structure policy has deprived ~~xx~~ the applicant for the same without any rhyme and reason and there is no valid reason for this classification which excluded one category out of the categories which was governed by the same rules and under the same channel of promotion. The applicant has been redesignated in 1988 but has not been promoted to the promotional post. There appears to be force in the contention raised on behalf of the applicant that the policy decision has

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created a flaw in the class without any specification and this creation of sub-class is discriminatory and arbitrary and there is no valid justification for the same and the respondents have not been able to do the same according to rule. The applicant filed representation against the same but his representation was not heeded to. Learned counsel for the applicant tried to rely still on the case of Supreme Court which ^{is} though not directly applicable to the facts of the case but the reasonings of the same support contention of the learned counsel for the applicant. Reference has been made to 'Bhagwan Dass & others Vs. Union of India' 1987 ATC 136 in which only some trades were upgraded and the remaining trades were not upgraded, the Court held that it is a violation of principle of 'equal pay for equal work'. In that case also there was question of various jobs. The case of the applicant deserves consideration and we cannot grant any relief as it amounts to variation of the policy decision. We direct the respondents to consider the matter again in the light of the observations made above and in the light of provisions under Articles 14 and 16 of the Constitution of India and the principle of 'equal pay for equal work' should not be violated. Let a decision in this behalf be taken within a period of three months from the date of communication of this order taking into consideration all the relevant facts and circumstances and the principle that there should be no discrimination as the principle of equal pay for equal work has come to stay in this

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case. There will be no order as to costs

[Signature]
MEMBER (A)

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VICE CHAIRMAN.

DATED: FEBRUARY 21, 1992

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