

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No. OA 26 of 96

Present : Hon'ble Mr. Mukesh Kumar Gupta, Judicial Member  
Hon'ble Mr. M.K. Mishra, Administrative Member

1. ABDUR RAHIM MALLICK
2. GORACHAND DAS
3. MONORANJAN MISTRY
4. SAHADEV SARDAR
5. BISWAJIT MONDAL

...APPLICANTS

VERSUS

1. Union of India, through  
Secretary, Ministry of Defence,  
Govt. of India, New Delhi.
2. E-in-Chief, Military Engineering  
Service, Ministry of Defence,  
Govt. of India, New Delhi.
3. Chief Engineer, Eastern Command,  
Military Engineering Service,  
Gurusaday Road, Calcutta.
4. Command Engineer, Barrackpore,  
Dist. - 24 Parganas, Military  
Engineering Service, Barrackpore,  
24 Parganas (previously 13 Camac  
Street, Calcutta - 17).
5. Garrison Engineer, Military  
Engineering Service, Panagarh,  
Dist. - Burdwan.

RESPONDENTS

For the applicants : Mr. D. Mukherjee, counsel

For the respondents : Mr. M. S. Banerjee, counsel

Heard on : 22.12.2004

Order on : 24.12.2004

O R D E R

M.K. Mishra, A.M.

There are 5 applicants who seek through this OA the following  
reliefs :

- a) leave under Rule 4(5)(a) of Administrative Tribunals (Procedure) Rules, 1987 to move this application jointly.
- b) cancel, withdraw and/or rescine the purported decision and memo dated 14.12.95 contained in Annexure 'D' hereof which has not yet been given effect to in any manner whatsoever.

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- c) to direct the respondents not to give any effect to the impugned memo contained in Annexure 'D' hereof in any manner whatsoever and further direct the respondents to draw and disburse pay as usual as before attached to the post viz. in scale Rs.950-1500/-.
- d) to direct the respondents not to effect any recovery from the pay packets of the applicants in any manner whatsoever in the alleged garb of the said impugned order contained in Annexure 'D' hereof.
- e) and to pass such further or other order or orders as to your Lordships may seem fit and proper.

2. In short the facts are that the 5 applicants have been working as Diesel Engine Starter under Garrison Engineer, MES, Panagarh in the scale of Rs.950-1500/- . They joined service between 9.1.90 and 12.12.90 in the scale of semi-skilled grade carrying scale of Rs.800-1150/- . Later on they were promoted in the scale of Rs.950-1500/- meant for skilled grade in the year 1990 itself. On 17.11.95 vide memo of even date the Engineer-in-chief issued a show cause notice to the applicants as to why they should not be put in the lower scale as they were not ITI pass which was one of the essential qualification for skilled post in the scale of Rs.950-1500/- . The applicants contended vehemently that since they were given the skilled scale in 1990 and they have rendered services satisfactorily, therefore after a lapse of a period of 5 years they cannot be given the lower scale of Rs.800-1150/- as semi-skilled. Vide memo dated 14.12.95 (Annexure 'D') the applicants were placed in the lower scale. This impugned order is under challenge before this Tribunal.

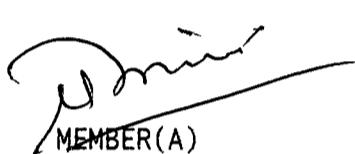
3. The respondents in their reply submitted that as per circular dated 11.1.85 (Annexure R/1) for the post of fitment of industrial workers of MES in pay scale recommended by the 3rd Pay Commission, the qualification for making direct recruitment would be as under

*(NCL)*

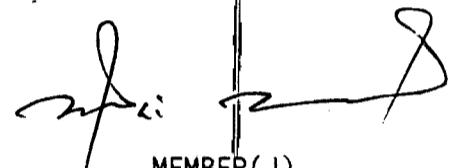
- a) Educational : Middle Standard/Matric Standard as stipulated for admission by the ITIs for the concerned trades.
- b) Technical : ITI certificate for the concerned trades/ex-trade Apprentices/NCTVT. The newly inducted direct recruit will be recruited in the semi-skilled grade of Rs.210-290/- and on satisfactory completion of two years service in that grade will be considered for promotion to the skilled grade by DPC.

4. Since the applicants did not produce the ITI pass certificate, therefore they cannot be recruited directly in the skilled grade. Therefore earlier order was accordingly rectified.

5. We have heard the ld.counsel for both the parties. We observed that the educational and technical qualification for the skilled grade is Middle standard/Matric standard and ITI certificate and in the present case none of the applicants possess ITI certificate. Therefore their recruitment was erroneously made in the skilled grade which is in violation of the rules prescribed by the competent authority. The circular was issued on 11.1.85 whereas the recruitment was done in 1990 much after the rules prescribed by the competent authority. Hence in the light of the above the OA fails. No order as to costs.



MEMBER(A)



MEMBER(J)

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