

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 1263 of 96

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

1. TAPASH CHAKRABORTY
2. JAMES THOMAS PETER
3. MD. NAIMUDDIN
4. MD. RABBANI
5. ARUN KANTI GHOSH
6. LAXMI KANTA DAS

APPLICANTS.

VERSUS

1. Union of India, through
the Secretary, Ministry of Defence,
South Block, New Delhi - 110011.
2. Army Head Quarters,
Engineer-in-Chief,
Kashmir House,
New Delhi-110011.
3. The Chief Engineer,
Eastern Command,
Fort William,
Calcutta - 700021.
4. The Chief Engineer, Calcutta Zone,
Gurusaday Road, Ballygunge
Maidan Camp, Calcutta - 700019.
5. The Commander Works' Engineer,
1 Standale Road, Alipore,
Calcutta - 700027.
6. Garrison Engineer (Central),
Calcutta, T/37 Nappier Road,
Calcutta - 700022.
7. Garrison Engineer (Fort William),
Calcutta, 4 Red Road Camp, Fort
William, Calcutta - 700021.
8. Garrison Engineer (South),
Calcutta, Gurusaday Road,
Ballygunge Maidan Camp,
Calcutta - 700019.
9. Garrison Engineer (Alipore),
1 Standale Road, Alipore,
Calcutta - 700027.

RESPONDENTS.

For the applicants : Mr. N.C. Chakraborty, counsel

For the respondents : Mr. B. Mukherjee, counsel

Heard on : 30.11.2004

Date of order : 24.12.2004

(Signature)

O R D E R

M.K.Mishra, A.M.

Six applicants, all Group 'C' employees of Military Engineering Services (MES) were working as Skilled Worker in different trades such as Mechanic Precision Instrument (Sk), Boiler Attendant (Sk), Driver Engine Static (Sk), Pump House Operator (Sk), Upholster (Sk), Mechanic Petrol & Diesel Engine (Sk), Operator Earth Moving Machinery (Sk), Driver Mobile Plant (Sk). All the employees were placed in the pay scale of Rs.950-1500/- . Vide circular dated 6.7.94, Ministry of Defence provided promotional avenues to the industrial workers of the MES. It also indicated that the redesignated employees would also be entitled to promotion to Highly Skilled grade as per the present Bench Mark percentage. The administrative instructions regarding their promotions on the basis of eligibility and passing of trade test were also issued by the concerned Branch vide letter dated 6.7.94. Another circular was issued on 21.7.94 by the Chief Engineers of all Commands that the certain trades which were redesignated as Fitter General Mechanic (FGM) would be given further promotion as Highly Skilled grade employee subject of passing of trade test and having rendered minimum service of 3 years. Similarly the existing Mozdur, Chowkidar, Safaiwala, etc. would also be eligible for promotion to Mate Fitter Mechanic subject to passing of trade test and having rendered minimum service of 3 years and subject to availability of the vacancies. The promotion to Fitter Mechanic (Sk) HS-II and HS-I would be according to the existing ratio as per fitment policy i.e. 65% Sk : 20% (HS-II) : 15% (HS-I). Later on as a welfare measure it was decided to follow 20% promotion to HS-II level and further 15% promotion to HS-II level against 15% vacancies of HS-I thus total 35% (20+15) promotion of 15% against the vacancies of HS-I would be made as one-time measure as a special case before 31.3.95. A reservation of 15% in respect of Scheduled Caste and 7 1/2% in respect of Scheduled Tribes was also made in the case of direct recruitment as well as in promotions. Provisions for reservation for handicapped person and for minority community was also considered.

2. The main grievance of the applicants is that the trade test held on 9.1.96, 10.1.96, 11.1.96 and 6.9.96 were in violation of the rules relating to reservations for the Scheduled Caste, Scheduled Tribes and Handicapped persons and the required percentage for Scheduled Caste, Scheduled Tribes and Handicapped which is mandatory in filling of the vacancies, was not adopted by the competent authority. All the applicants prayed before this Tribunal that impugned trade test results as communicated under reference dated 30.3.96 and 21.9.96 by Chief Engineer, Calcutta Zone should be set aside and quashed and directions be issued to the respondents to hold fresh trade tests as per the instructions given in the circular mentioned above and after framing the syllabi and giving training to the Fitter General Mechanic (Sk) personally in accordance with the administrative instructions issued from time to time and the Departmental Promotion Committee held on the basis of trade tests results should also be set aside and quashed and the respondents be further directed to hold fresh DPC after the fresh trade test as prayed above.

3. The 1d.counsel for the respondents in their reply submitted that vide letter dated 21.7.94 of Engineer-in Chief's Branch certain trades in the MES were merged and redesignated as Fitter General Mechanic (FGM) in order to extend the promotion prospects to industrial workers in MES. Such categories of trades were of Pump House Operator, Driver Engine Static, Mechanic Petrol & Diesel Engine, Driver Mobile Plant, Operator Earth Moving Machinery Pneumatic Tools, Operator Pneumatic Tools, Boiler Attendant and Lift Mechanic. Such trades were allowed for promotion to Fitter General Mechanic, HS-II as per the existing Bench Mark 65:20:15 subject to passing of trade test and having rendered minimum 3 years service. All the applicants were considered eligible and some of them also appeared in the said trade test. The details of them are as under :

(Signature)

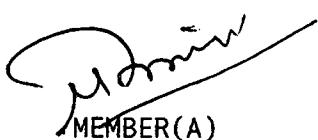
a)	MES/202737 Shri Tapak Chakraborty	Absent
b)	MES/202870 Shri James Thomas Peter	Failed
c)	MES/202635 Shri Md. Naimuddin	Failed
d)	MES/202940 Shri Md. Rabbani	Absent
e)	MES/468010 Shri Arun Kanti Ghosh	Failed
f)	MES/202241 Shri Laxmi Kanta Das	Failed

It was further contended by the respondents that none of the applicants raised any objection or represented before the competent authority about the alleged irregularity in conducting the trade test. Their grievances came into existence only after the result was declared. After the publication of the result the Board of Officers convened the Departmental Promotion Committee meeting with a member from SC & ST community. 90 industrial employees were promoted to Fitter General Mechanic, HS-II after maintaining 40% roster of SC & ST and all the members of this communities were promoted to FGM, HS-II in accordance with the 40 Point roster. All the rules relating to promotion, trade test, etc. were observed by the concerned authorities. Regarding the promotion of Chowkidar, Mozdur, etc. the respondents submitted that their issue is not related to the issue of the applicants. Regarding the promotion of 15% against the vacancy of HS-I which was a one time measure as a special case before 31.3.95 the date got extended upto 31.9.96 vide letter dated 3.8.96. The training programmes were also conducted but none of the applicants attended the same. In the instruction it was clearly stated that there would be no change in the existing deployment of the personnel, even after their redesignation as Fitter General Mechanic (SK) for the time being. However in due course of time all the Fitter General Mechanic are expected to perform any of the duties of the Tradesman as indicated in the above circular. The syllabus was also circulated before the trade test was held vide letter dated 6.3.95 and the applicants did not raise the issue of syllabus before the trade test was conducted. None of the applicants were refused to appear in the trade test. One Shri Gajadhar Thakur was shown as passed due to typographical mistake. Subsequently that mistake was set right officially.

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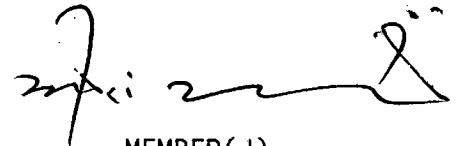
4. We have heard the 1d.counsel for the parties and also perused the records and the pleadings. We observed that the trade tests were held according to the instructions issued from time to time. The syllabus was also circulated before the trade test was held. The applicant No.1 & 4, Shri Tapas Chakraborty and Md.Rabbani were found absent and did not appear in the trade test. The applicants No.2, 3, 5 & 6 namely James Thomas Peter, Md.Naimuddin, Arun Kanti Ghosh and Laxmikanta Das, though appeared in the trade test were found failed. From the letter dated 3.3.04 issued by the Engineer-in-Chief indicates in clause (d) that vacancies arising between 1.1.96 and 19.5.03 in HS post will be filled by promotion to the tune of 35% based on seniority without any trade test as one time measure. It is observed that the circular was issued on 3.3.04 and it relates to vacancies arising between 1.1.96 and 19.5.03 in HS post, whereas the trade tests were held on 9.1.96, 10.1.96 & 11.1.96 for the vacancies arising before 1.1.96. Therefore this circular is not applicable in this case.

5. In the circumspect of the above discussion the OA is bereft of any merit and hence is dismissed. No order as to costs.



MEMBER(A)

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MEMBER(J)