

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

13

O.A. No. 355/1996
Ex-A. No.

199

DATE OF DECISION: 16.03.2000.

Amar Singh & Ors.

Petitioner(s)

Mr. S.K. Malik,

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent(s)

Mr. B.S. Rathore,

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. A.K. Misra, Judicial Member

The Hon'ble Mr. Gopal Singh, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *ND*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *ND*
4. Whether it needs to be circulated to other Benches of the Tribunal? *ND*

Gopal Singh
(Gopal Singh)
Adm. Member

A.K. Misra
(A.K. Misra)
Judicial Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR

O.A. No. : 355/1996

Date of Order : 16.3.2000

1. Amar Singh S/o Pabu Singh aged about 42 years resident opposite Ship House, Near Ganesh Mandir, Jodhpur presently working as Sr. Elect HA-I, GE(A) Jodhpur.
2. Budhi Ballabh S/o Shri Bansi Dhar Pant, aged about 53 years, resident of House No. 48, Prithvi Pura, Rasala Road, Jodhpur. (Presently working as Sr. Mech HS-I in the office of GE(A) Jodhpur).
3. Shri Om Prakash S/o Shri Banwari Lal ji, aged about 47 years, resident of F-33, Pratap Nagar, Jodhpur. (presently working as Sr. Mech HS-I, in the office of GE(EP), Jodhpur.)
4. Shri Harbhajan Singh S/o Shri Bawa Singh, aged about 46 years, Lancer Lines, Army Area, Jodhpur. (presently working as Sr. Elect HS-I, in the office of GE(A) Jodhpur.)
5. Shashi Kant S/o Shri Nihal Chand ji, aged about 48 years, resident of 25-B, Behra Vilas, Near Sardarpura, Jodhpur. (presently working as Sr. Elect HS-I, in the office of GE(EP) Jodhpur.)
6. Ashok Kumar S/o Shri Ram Gopal ji, aged about 47 years, resident of C-3, Arvind Nagar, Airforce, Jodhpur. (Presently working as Sr. Mech HS-I, in the office of GE(A), Jodhpur.)
7. Mohinder Singh S/o Shri Krishna Ram ji, aged about 43 years, resident of near Sher Vilas, in front of AF Officers Mess, Jodhpur. (presently working as Sr. Mech. HS-I, in the office of GE(A) Jodhpur.)
8. Ratan Lal S/o Shri Sukh Ram ji, aged about 35 years, resident of H.No. 1050, Gandhi Pura, Jodhpur (presently working as Painter HS-I, in the office of GE(EP) Jodhpur.)
9. Madho Singh S/o Shri Achla Ram ji, aged about 46 years, resident of Naya Pura, Hospital Road, post BSF, Jodhpur (presently working as Sr. Elect.-HS-I, in the office of GE(A), Jodhpur.)

..Applicants.

Versus

1. Union of India, through the Secretary, Ministry of Defence, New Delhi.
2. Engineer-in-Chief's Branch, Kashmir House, Army Headquarters, DHQ PO, New Delhi.

Gopal S. J.

3. Commander Works Engineers (Army),
Multan Lines, Jodhpur.

Respondents.

Mr. S.K. Malik, counsel for the applicants.

Mr. B.S. Rathore, counsel for the respondents.

CORAM :

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

PER HON'BLE MR. GOPAL SINGH :

Applicants, who are working as Senior Mechanic HS-I with the respondent department have filed this application under section 19 of the Administrative Tribunals Act, 1985 praying for setting aside the impugned orders dated 06.06.1996 at Annexure A/1 to A/7 and order dated 01.7.1994 at Annexure A/14 cancelling the promotion of the applicants and for a direction to the respondents to give promotion to the applicants to the grade of HS-I with effect from 15.10.1984 and 15.10.1985 with all consequential benefits like arrears of pay and allowances alongwith interest at the rate of 20% per annum. Applicants' case is that consequent upon recommendations of the Anomalies Committee on fitment of Industrial Workers of MES in the pay scales recommended by the Third Pay Commission, all the applicants were promoted as Senior Mechanic HS-I vide respondents letter dated 19.01.1994, promotion being effective from 15.10.1985. Subsequently, this promotion was cancelled by the respondents vide their letter dated 06.6.1996 (Annexure A/1 to Annexure A/7). Feeling aggrieved, the applicants have filed this OA.

Gopal Singh

2. Notices were issued to the respondents and they have filed their reply. It is contended by the respondents that promotion from HS-II to HS-I under the fitment scheme was subject to the condition that the HS-II employees fulfil the prescribed criteria under relevant recruitment rules and vacancies existed. The criteria for promotion from HS-II to HS-I required passing of Trade Test and three years' experience as HS-II. It is the contention of the respondents that the applicants had passed the Trade Test sometime in 1991 and were not having the required three years' experience as on 30.6.1986 for giving them the benefit of promotion with effect from 15.10.1985. Thus it is argued by the respondents that the application is devoid of any merit and deserves to be dismissed.

3. We have heard the learned counsel for the parties and perused the record of the case.

4. Recommendations of the Anomalies Committee and subsequent clarifications issued by the department in regard to the fitment of industrial workers of MES in the pay scales recommended by the Third Pay Commission are summarised below :-

1. Respondents' letter dated 04.7.1985 (Annexure A/8) :

1. Common category skilled jobs to be provided highly skilled grade II (Rs. 330 - 480) and highly skilled grade I (Rs. 380 - 560) depending upon the functional requirement in the following manner as a bench mark percentage :-

- | | | |
|-----|---------------------------------------|-------|
| (a) | Highly Skilled Grade I (Rs. 380-560) | - 15% |
| (b) | Highly Skilled Grade II (Rs. 330-480) | - 20% |
| (c) | Skilled Grade (Rs. 260-400) | - 65% |

2. Letter dated 06.06.1986 (Annexure A/9).

Promotion of Highly Skilled Grade II to Highly Skilled Grade I.

There are two procedures laid down for promotion to Highly skilled Grade I :-

- Firstly, for the categories for which recruitment Rules already exist such as charge Mech/Charge

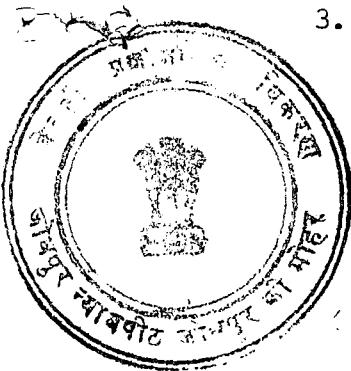
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Elect/Charge Mech (refg.). The workers are eligible for promotion to highly skilled grade I w.e.f. 15 Oct., 1984 provided the workers satisfy the prescribed criteria in Recruitment Rules and vacancies exist. However, if existing strength of charge Mech, charge Elect and charge Mech (Refg.) is 15% or more, no promotion can be made in HS Grade I of these categories.

2. Secondly categories for which recruitment Rules were not in existence on 15th Oct., 1984 such as carpenter highly skilled Mech HS-I and Painter/Polisher/Sign writer HS-I etc. **Workers shall be promoted after passing the prescribed trade test.** However, experience criteria has been relaxed to one year as one time relaxation. Thus promotion to HS-I in these categories will be effective from 15th Oct., 1985.

3. Annexure A/12



In consultation with the union representatives, the respondent department issued instructions that promotions to HS Grade-I categories for which recruitment Rules, exists should be made with effect from 16.10.1984 though the individuals qualified in the trade test held in 1987/88 since no trade test was conducted by the department till 1987/88.

5. It is the contention of the applicants that though they have passed the trade test in the year 1990/91, they are entitled to promotion with effect from 15.10.1984/15.10.1985 in terms of the fitment scheme mentioned above and it is also the contention of the applicants that three years' experience required for promotion from HS-II to HS-I stands relaxed in terms of the provisions mentioned above. From the provisions of the fitment scheme reproduced above, it would be seen that relaxation of experience was given to the categories for which recruitment Rules were not in existence. Applicants belong to the categories where recruitment Rules already existed and under the provisions they were required to satisfy the prescribed criteria in the recruitment Rules for promotion to the grade of HS-I. Further as per the scheme they were required to clear the trade test before 30th June, 1986 for their entitlement for promotion as HS-I. Since there was no

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relaxation in the period of experience in regard to categories for which recruitment Rules were in existence they were required to have three years' experience for promotion to the HS Grade I under the fitment scheme. The applicants had passed the trade test in the year 1991 and were not having three years' experience as on 30.06.1986 and, therefore, in our view, they were not entitled to promotion to HS Grade I in terms of the fitment scheme. It may be mentioned that all the applicants were promoted to the post of HS-II under the fitment scheme. Thus, in our opinion, the OA is devoid of any merit and deserves to be dismissed.

6. The OA is, accordingly dismissed with no orders as to costs.

Gopal Singh

(GOPAL SINGH)

MEMBER (A)

Shri 16/3/1997

(A.K. MISRA)

MEMBER (J)

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Part II and III destroyed
in my presence on 10.10.86
under the supervision of
section officer (J) as per
order dated 29/8/86

Section officer (Record)

File Copy of A
Kisan
Viswanath
Kishen Singh Chauhan
B.S. Lalwani
Under fee

Copy of B
S.K. Malhi
22/3/88