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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
JODHPUR

.....
Date of Order : 26.2.2002.

O.A.NO. 302/1999

1. Vijay Kumar S/o Shri Kashi Ram aged about 39 years, posted as Refg. Mechanic.
2. Ladhu Ram S/o Shri Bachoa Ram aged 41 years, posted as Refg. Mechanic.
3. Sukvinder Singh S/o Shri Sacha Singh aged 39 years, posted as Refg. Mechanic.
4. Dutt Ram S/o Shri Gopi Ram aged 45 years, posted as Refg. Mechanic.
5. Maheshwar Das S/o Shri Ramjidas aged 40 years, posted as Refg. Mechanic.
6. Harikeshwar S/o Shri Toofani aged 41 years, posted as Refg. Mechanic.

C/o Shri Vijay Kumar Yadav, House No. 679, Ward No. 11, Purani Abadi, Sriganganagar.



Official Address : Applicants' No. 1,4 and 5 are employed on the post of Refg. Mechanic in the office of Garrison Engineer (Army), MES, Sriganganagar and applicants' No. 2, 3 and 6 are employed on the post of Refg. Mechanic in the office of Garrison Engineer (Army), MES, Lalgah Jattan, Distt. Sriganganagar.

Mr. B.Khan, Counsel for applicants.

.....Applicants.

VERSUS

1. Union of India through Secretary to Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, MES, Sriganganagar.
3. Engineer-in-Chief's Branch, Army Headquarters, DHQ, PO, Kashmir House, New Delhi.

Mr. S.K.Vyas, Counsel for respondents.

.....Respondents.

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CORAM :

HON'BLE MR. JUSTICE O.P.GARG, VICE CHAIRMAN
HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

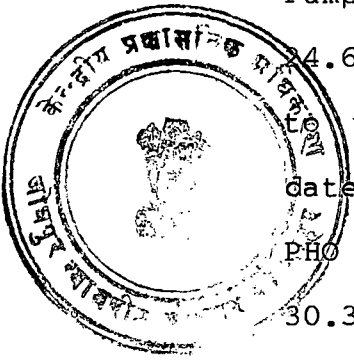
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Gopal Singh

PER HON'BLE MR. GOPAL SINGH :

In this application under section 19 of the Administrative Tribunals Act, 1985, applicants, six in number, have prayed for quashing the impugned order dated 16.4.1998 (Annex.A/1) qua the applicants and order dated 16.12.1998 (Annex.A/2) and for direction to the respondents to allow the applicants due exemption from passing the trade test for the post of H.S. Grade II with all consequential benefits.

2. Applicants No. 1, 2 and 3 were initially appointed as Motor Pump Attendant (for short 'MPA') and other applicants were appointed on other group 'D' posts in the MES. The post of MPA was subsequently re-designated as Pump House Operator (for short 'PHO'), vide letter dated 24.6.1987. Applicants passed the trade test for promotion to the post of Refrigerator Mechanic (SK), vide letter dated 18.12.1990 and they were promoted from the post of PHO to the post of Refrigerator Mechanic vide letter dated 30.3.1991 (Annex.A/5). At present, the applicants are holding the post of Refrigerator Mechanic (SK). The respondent-department had introduced a policy of fitment of industrial workers of MES in pay scales recommended by the III Pay Commission. Subsequently, eight trades (Pump House Operator, Driver Engine Static, Mechanic Petrol & Diesel Engine, Driver Mobile Plant, Operator Earth Moving Machinery, Operator Pneumatic Tools, Boiler Attendant and Lift Mechanic), were redesignated as Fitter General Mechanic (for short 'FGM'). It was brought to the notice of the Government by certain JCM Members that these tradesmen have already passed the trade test for promotion to the next grade prior to the fitment policy but, their promotion has been sealed due to non inclusion of these trades in the fitment policy. The JCM Members have further



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proposed that the above tradesmen, who have already passed the trade test for promotion to the next grade, should be exempted ~~from trade test~~ from trade test for promotion to FGM HS Grade II. This aspect was examined by the respondent-department and it was decided that the above tradesmen, who have already passed the trade test equivalent to HS Grade II or highest trade for promotion to the next grade, are exempted from passing the trade test for promotion to FGM HS Grade II. It is the contention of the applicants that they had passed the trade test for promotion to Refrigerator Mechanic (SK) in 1990 and were promoted from the post of PHO to the post of Refrigerator Mechanic (SK) on the basis of trade test. Now, both the post of PHO and Refrigerator Mechanic (SK), have been merged together in one scale and, therefore, the trade test they had passed in 1990, should be treated as a trade test for FGMS HS Grade II and they may be given promotion to the post of FGM HS Grade II without any further trade test. The applicants, however, were not given the benefit of promotion to HS Grade II and they were asked to appear in the trade test for the same. They had appeared under protest for the said test held on 2.12.1997 but failed. In these circumstances, applicants have prayed for quashing the impugned order dated 16.4.1998 (Annex.A/1) by which the result of the trade test held on 2.12.1997 was declared.

3. In the counter, the case of the applicant has been denied on the ground that redesignated FGMS, who have already passed the trade test of HS Grade II or higher level, are exempted from passing the trade test for promotion of FGM HS Grade II only and further, since the

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applicants had passed the trade test for promotion to the post of Refrigerator Mechanic, the said trade test of Refrigerator Mechanic, cannot be equated to the trade test of HS Grade II level. It has, therefore, been submitted by the respondents that the application is devoid of any merit and is liable to be dismissed. The learned counsel for the respondents has also cited the order dated 18.12.2000 passed in O.A. No. 390/HR/95 by the Chandigarh Bench of the Central Administrative Tribunal in support of his contention.

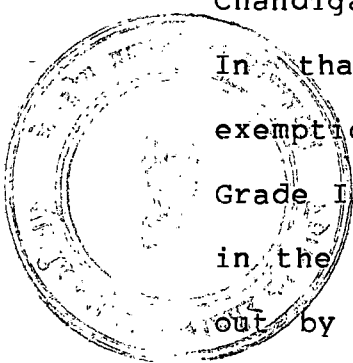
4. We have heard the learned counsel for the parties and perused the record of the case carefully.

5. The learned counsel for the applicant had cited the order of this Bench dated 22.9.1999 passed in O.A. No. 252 of 1994 Madan Lal Vs. UOI & Ors. , in support of his contention that they should be exempted from passing the trade test for promotion to the post of FGM HS Grade II. We have carefully examined this order in the case of Madan Lal Vs. UOI & Ors. This case deals with the restructuring scheme introduced in the Railways vide their letter dated 27.1.1993. It was clearly provided in the Scheme that the selection for the purpose of implementation of the scheme will be based only on scrutiny of service records and confidential reports without holding any written or viva voce test. The applicants therein, were subjected to a trade test for promotion to the higher post under the restructuring scheme. This was challenged before this Tribunal and the trade test conducted by the respondents was declared null and void in terms of the provisions of the scheme as

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discussed above. There is no such provision for not conducting the trade test for promotion to the HS Grade II. It is only provided that tradesmen, who have passed the trade test for promotion to HS Grade II or higher, trade test will be exempted from taking afresh/ for promotion to HS Grade II. The present applicants have only passed a trade test for promotion to Refrigerator Mechanic (SK) and not for HS Grade II. As such, they cannot take advantage of the Army Headquarter letter dated 1.2.1995 (Annex.A/7). The trade test for the post of Refrigerator Mechanic (SK), can not be treated at par with the trade test for the HS Grade II. The learned counsel for the respondents has cited the judgement dated 18.12.2000 passed in O.A. No. 390/HR/95 rendered by the Chandigarh Bench of the Central Administrative Tribunal. In that case also, applicants therein, had sought exemption from trade test for promotion to the post of HS Grade II on the ground that they had passed the trade test in the year 1973 and 1987. In that case, it was pointed out by the respondents that the trade test conducted in respect of both the applicants in the year 1973 and 1987, were for the post of General Fitter and Engine Fitter respectively and they were accordingly promoted to those posts on the basis of those trade test passed by them and those trade tests are not relevant for promotion to the post of Fitter General Mechanic Hs Grade II. Since the applicants therein failed to qualify in the trade test for HS Grade II, the O.A. was dismissed. We are firmly of the view that the present O.A. is squarely covered by order dated 18.12.2000 passed in OA No. 390/HR/Chandigarh rendered by the Chandigarh Bench of the Central Administrative Tribunal and is liable to be dismissed. The O.A. is accordingly dismissed with no order as to costs.



Gopal Singh
 (Gopal Singh)
 Adm. Member

O.P. Garg
 (Justice O.P. Garg)
 Vice Chairman

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by
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Part II and III destroyed
in my presence on ~~3.2.07~~
under the supervision of
section officer () as per
order dated ~~14.5.07~~

Section officer (Record)

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