

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. NO.626/1997

DATE OF DECISION: 29.09.2004

PRESENT: HON'BLE MR. SARWESHWAR JHA, MEMBER (A)
HON'BLE MR. M.K. GUPTA, MEMBER (J)

1. Shri Manegar Rai, Son of Late Sri Roshan Rai, aged about 50 years, residing at 3/53, Bhatpara Lane, P.O. Bhatpara, 24-Parganas (N) Working as Fitter General Mechanic under GE (A/F), Barrackpore, MES, No. 207640
2. Shri Mahatam Prasad Singh, Son of Late Sri Bikram Pd. Singh, aged about 51 years, residing at Sen Bazar, Straw Shop, Ishapore, P.O. Nawabganj, 24-Parganas (N), Working as Fitter General Mechanic Under GE (A/F), Barrackpore, MES No. 207642
3. Sri Nemai Chandra Bose, Son of Late Sri Narayan Ch. Bose, Residing at Vill. Barakothalia, P.O. Sehuli, 24 Parganas (N), aged about 41 years Working as Fitter General Mechanic under GE, Barrackpore, MES No.207694
4. Sri Subash Ch. Nandy, Son of Late B.R. Nandy, residing at Vill. Ruia, P.O. Patulia, Distt. 24 Pgs (N), aged about years, Working as Fitter General Mechanics under GE(A/F) Barrackpore, MES No. 207119
5. Biswanath Dubey, Son of Sri Ramnaresh Dubey, aged about 49 years, residing at S.N. Banerjee Road, P.O. Barrackpore, 24-Pgs (N) Working as Fitter General Mechanic under GE (A/F) Barrackpore, MES No. 207788
6. Sri Pratul Ch. Biswas, Son of Biswas, aged about 47 years, Residing at Das Para, Monirampur, P.O. Barrackpore, 24 Pgs (N), Working as Fitter General Mechanic under GE(A/F), Barrackpore, MES No. 207117
7. Sri Krishna Bahadur Chetry, son of Late Sri Man Bahadur Chetry, aged about 40 years, Residing at Nepali Pally, Patla, P.O. Bengal Enamel, 24 Pgs. (N), Working as Fitter General Mechanic under EG Barrackpore, MES No. 207454
8. Sri Lal Bahadur Ram, son of Late Sri Ram Adhir Ram, aged about 46 years, Residing at Surkikol, Kumarpara, C/o Binay Mullick Ishapore,, P.O. Nawabganj, 24 Pgs (N) Working as Fitter General Mechanic under GE (A/F) Barrackpore, MES No.207787

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9. Sri Bijoy Kr. Paul, son of Late Sri Anil Paul, aged about years, Residing at Halisahar Rail Boundary Road, New Purbachal P.O. Nabanagar, Dist. 24 Pgs (North) working as GE Barrackpore, as Fitter General Mechanic MES No. 208149
10. Sri Krishna Banerjee, son of Late Sri Anil Ch. Banerjee, aged about 40 years Residing at E/77, Patulia Govt. Qtr. P.O. Titagarh, 24 Pgs (N) Working as Fitter General Mechanic under GE Barrackpore, MES No. 207753
11. Sri Jiban Kr. Biswas, Son of late Sri Jagbandhu Biswas, aged about 55 years, Residing at Jaffarpore Colony, P.O. Nonachandanpukur, 24-Pgs(N), Working as Fitter General Mechanic under GE (A/F) Barrackpore, MES No. 207262
12. Sri Kali Pada Mazumder, son of Late Niranjan Mazumder, aged about 47 years, Residing at Qtr. No.26/2(A/F) MES P.O. Barrackpore, 24-Pgs (N) Working as Fitter General Mechanic under GE (A/F) Barrackpore, MES No.206962

All applicants are posted as Fitter General Mechanic Skilled in the scale of Rs.950-1500/- under Commander Works Engineer (S) Barrackpore

.... Applicants

V e r s u s

1. Union of India, through the Secretary, Ministry of Defence, South Block, New Delhi - 1
2. The E-in-C's Branch, Army Head Quarters, DHQ, Kashmir House, New Delhi - 1
3. The Chief Engineer, HQ Eastern Command, Fortwilliam, Calcutta - 700 021
4. The Chief Engineer, Calcutta Zone, Ballygunge Maidan Camp, Gurusaday Road, Calcutta - 700 019
5. The Commander Works Engineer (S) P.O. Barrackpore, Dist. 24 Pgs (N) Pin - 743 101
6. The Garrison Engineer, Barrackpore, P.O. Barrackpore, Distt. 24 Pgs (N)
7. The Garrison Engineer (Air Force), Barrackpore, P.O. Barrackpore, Distt. 24 Pgs (N) Pin:743 101
8. Sri Samaresh Biswas, MES No.207830 posted at FGM HS-II under GE Barrackpore Post Barrackpore, Dist. 24-Pgs (N)

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9. Sri Sambhu Nath Ghosh, MES No.206948,
Posted as FGM.HS-II, under GE Barrackpore,
Post Barrackpore, Dist. 24-Pgs (N)
10. Sri Sukumar Sarkar, MES No.206987,
Posted as FGM.HS-II under GE Barrackpore,
Post Barrackpore, Dist. 24-Pgs(N)
11. Sri Durga Prasad Kairi, MES No.206986
Posted as FGM.HS-II under GE (A/F) Barrackpore
Post Barrackpore, Dist. 24 Pgs (N)
12. Sri Balaram Neogi, MES No.208404,
Posted as FGM.HS-II, Under GE(A/F)
Barrackpore, Post Barrackpore,
Dist. 24 Pgs (N)
13. Sri P.K. Rakshit, MES No.207889
posted as FGM HS-II under GE Barrackpore,
Post Barrackpore, Dist. 24 Pgs (N)
14. Sri Manohar Singh, MES No.207882
Posted as FGM HS-II under GE Barrackpore,
PO Barrackpore, Dist. 24-Pgs(N)
15. Sri S.K. Mandal, MES No.182141,
Posted as FGM HS-II under GE(A/F) Barrackpore,
P.O. Barrackpore, Dist.24-(Pgs)N.
16. Sri Srikan Mondal, MES No.466600,
Posted as FGM HS-II under AGE (I) Singharee
Post Pakur, Dist. Pakur, Bihar
17. Sri N.K. Baskar (SC) MES No.208198
Posted as FGM HS-II, AGI(I) Singharee
Post & Dist. Bihar
18. Sri P.N. Adhikary (SC) MES No.208404
Posted as FGM HS-II GE Barrackpore,
P.O. Barrackpore, Dist.24-Pgs(N)
19. Sri Debendra Nath Roy, MES No.211865
Posted as EGM HS-II in the scale of
Rs.1200-1800/- under Garrison Engineer (A/F)
Barrackpore, Po. Barrackpore,
Dist. 24 Pgs (N)

... Respondents

Present for Applicants : None

Present for Respondents : Ms. K. Banerjee

ORDER

PER SARWESHWAR JHA, MEMBER (A) :

The applicants have impugned the order issued by the respondents (respondent No.5) dated 31.08.1996. They have also questioned the holding of DPC by calling some candidates while leaving out others and also filling 79 posts of Fitter without considering the applicants

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for promotion and posting against the said posts through the same DPC or a Review DPC. They have also the grievance that their representations submitted in the matter have not been given due consideration by the respondents.

2. The facts of the matter, briefly, are that the applicants, who were initially appointed as Motor Pump Attendants (MPA) under the Garrison Engineer, Barrackpore in the Military Engineering Service in Industrial Cadre on different dates starting from 1968 onwards and who were subsequently designated as Pump House Operator (PHO), were working in the scale of pay of Rs.260-400/- w.e.f. 16.10.1981. A reference has been made to the clubbing of 8 Trades into one Trade and designating it as 'Fitter General Mechanic' (FGM) vide Government of India, Ministry of Defence's Letter dated 06.07.1994 in order to provide promotional prospects to the various Trades of the Industrial workers of the M.E.S. A reference has also been made to the ratio as per fitment policy for promotion to FGM (SK) (HS-II and HS-I) in paragraph 4.7 of the OA and it has been submitted that with the redesignation of FGM coming into being, a few personnel were initially to become eligible for promotion to HS-II after passing the Trade Test and those promoted to HS-II would eventually become eligible for promotion to HS-I only after completion of the requisite period of service subject to passing of the Trade Test. The details of the per centage of posts in HS-II and HS-I levels have been given in the said paragraph of the OA. On the question of inter-se seniority among the various Trades, the applicants have submitted that it has

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to be reckoned from the date of their placement in the scale of Rs.260-400 (pre-revised). Again, Various issues relating to doubts in the matter of inter-se seniority have been explained in paragraph 4.8 of the OA. In these back-grounds, a Trade Test was conducted in December, 1995 and all the FGMs were called for the test for promotion to the post of HS Grade-II and the result thereof was published vide order dated 30.03.1996. It was published in two groups, namely, Appendix 'A' for the candidates of CWE Calcutta area and Appendix 'B' for the candidates of CWE (S) Barrackpore area, to which the applicants belong. The subject matter of this OA is, therefore, Appendix 'B' only.

3. It has been further submitted that while 202 candidates were allowed to appear in the said Trade Test from ~~CWE~~ (S) Barrackpore area, some of them were found absent and some failed in the said Trade Test. The applicants have submitted that only a part result has been collected by them, which does not include the results of candidates from a place called Singharshee. Accordingly, the result of the candidates, who qualified in the Trade Test, particularly including the candidates of Singharshee, was published partly. Finally, 109 candidates were declared to have qualified as Fitter General Mechanic HS-II. Here again, the applicants have alleged that it was a part list only. According to them, such candidates who were absent and who had failed in the Trade Test, were to be called for a supplementary Trade Test along with those who had already qualified for the reason that there had to be a consolidated list of the qualified candidates in one DPC. They have also held that no promotion and posting could have been possible until the

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DPC was held in respect of both the parts/batches of the results against the sanctioned 86 posts with the break up of UR-67, SC-13 & ST-6.

4. The allegation of the applicants is that the Chief Engineer, Calcutta Zone, however, vide his letter dated 06.07.1996 instructed the CWE(S), Barrackpore to arrange for making a nominal roll for supplementary Trade Test for the same Unit in respect of absent and failed candidates and accordingly a nominal roll was sent to the Presiding Officers of the Chief Engineer, Calcutta Zone for 86 posts (General-67, SC-13 & ST-6). The contention of the applicants is that promotion and posting has to be given to the entire 86 number of candidates as a one time measure, i.e., at a time to the posts of FGM HS-II from both the parts, namely, the part list as well as the list prepared on the basis of the supplementary test held in respect of absentee and failed candidates. Accordingly, after holding the written as well as viva voce tests and after finalising the results, a list of 86 number of FGM (SK) out of 123 candidates was prepared for the DPC along with qualified candidates from the earlier part list for preparing a consolidated list by the DPC. It has been alleged that, in the meantime, necessary amendment in respect of some candidates, who were earlier qualified in the part list, was made and with that the trouble started. According to them, a DPC was held, placing before them only the names of successful candidates of the part list dated 30.03.1996 and based on that a panel of 79 candidates out of the qualified candidates of the part list was published and promotion-cum-posting order was issued on 31.08.1996 vide the impugned order.

5. The grievance of the applicants is that the respondents should not have sent the names of the qualified candidates from the earlier part list only to the DPC

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and that they should have waited till the date of publication of the result of the supplementary test in which the absentee and failed candidates had been called.

They have, therefore, prayed that the said DPC should be cancelled and the promotion and posting order as issued vide the order dated 31.08.1996 based on the selections as made by the said DPC be also cancelled. They have also prayed that a fresh DPC may be held and before which the candidates of both the lists be placed and considered.

6. The respondents have taken us to the detailed facts as submitted by them in the reply, in which it is observed that they have admitted that a Trade Test was conducted by them for promotion of FGM (SK) to FGM HS-II as per the orders of HQ CECZ Calcutta dated 17.7.1995 for the personnel of CWE (Suburb), Barrackpore area. It has also been mentioned that AGE(I)3 Singharsi, being an outstation, conducted a Trade Test for the personnel working in AGE (I) AF Singharsi vide HQ CECZ, Calcutta letter dated 31.05.1996. The results of both the Trade Tests were forwarded to CWE (Suburb), Barrackpore by CECZ, Calcutta vide their letters dated 30.03.1996 and dated 27.06.1996 respectively. A combined seniority list of 109 qualified candidates were prepared, based on both the results as mentioned above, in CWE (Suburb), Barrackpore. Such candidates as had been absent or failed in the Trade Test so conducted were not included in the seniority list of 109 qualified candidates.

7. An order was issued by CWE (Suburb), Barrackpore dated 28.08.1996 for preparation of select panel for promotion to the category of FGM HS-II from FGM SK for filling the vacancies in the CWE (Suburb), Barrackpore

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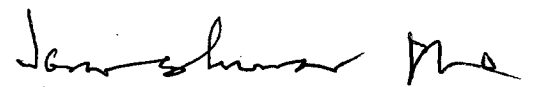
area as per the said list. Against the total number of 243 posts of FGM (SK) in CWE (Suburb), Barrackpore at the time of holding the said DPC, 85 personnel were to be promoted to the post of FGM HS-II out of the said 109 qualified candidates, following the ratio of promotion as decided vide para 7 of Army Headquarters E-in-C's Branch, New Delhi letter dated 21.07.1994, as explained in paragraph 4 (x) of the reply. In regard to consideration of the absentee or failed candidates, it had been clarified by the respondents that there is no policy to keep a DPC pending till such ^{candidates} have passed. Any candidate shall be considered by the DPC only if he had passed the Trade Test. Referring to the supplementary Trade Test having been held by them, as reported by the applicant, it has been clarified by the respondents that it was only in order to conduct a fresh Trade Test as a routine manner and not as a supplementary Trade Test for those candidates who ~~had~~ failed or ~~absented~~. in the Trade Test, as referred to by the applicants. The respondents have further reiterated that there are so many candidates who had either failed or were absent in the Trade Test conducted vide order dated 27.7.1996. According to them, if a DPC had to be kept pending for such candidates, including the applicants so as to enable them to pass the Trade Test, similar demands would be made by the left-over candidates and, thus, it would become a never-ending general process and that it would not be possible to finalise a DPC at all, resulting in the qualified candidates being deprived of promotion. According to them, therefore, the promotion given to the 85 candidates is in order and is as per the rules and no irregularity has been committed in the matter. In their opinion, there is no merit in the case of the applicants.

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8. On careful consideration of the matter as submitted by both the sides, it is observed that essentially the applicants had appeared in the Trade Test as conducted by the respondents on 17.07.1995 and had not cleared the same. It could be appreciated that a DPC could consider only such candidates as had cleared ^{The Trade Test} and could not have waited till the absentee or failed candidates had also been given another chance to pass the Trade Test. Such candidates can be considered only by subsequent DPC after they have qualified in the Trade Test. We, therefore, do not find any irregularity or infirmity in the acts of the respondents in promoting the candidates to the FGM HS-II based on their having passed the Trade Test and other tests and after having been recommended by the DPC held in regard to such candidates.

9. Under these circumstances, ~~and finding no merit~~ in the OA, we are constrained to dismiss it, with no order as to costs.


(Mukesh Kumar Gupta)
Member (J)


(Sarveshwar Jha)
Member (A)

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