

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.457/06

Friday, this the 29th day June 2007

C O R A M :

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN
HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER**

K.P.Xavier,
S/o.K.C.Peter,
H.S-I, Engraver (Wood),
Naval Aircraft Yard, Naval Base,
Southern Naval Command, Kochi.

...Applicant

(By Advocate Mr.K.P.Dandapani)

Versus

1. Union of India represented by the Secretary,
Ministry of Defence, North Block, New Delhi.
2. Flag Officer Commanding-in-Chief,
Southern Naval Command,
Head Quarters, Kochi.
3. Cammadore,
Civilian Section Officer (P&A),
Southern Naval Command, Kochi.

...Respondents

(By Advocate Mr.T.P.M.Ibrahim Khan,SCGSC)

This application having been heard on 26th April 2007 the Tribunal on 29th June 2007 delivered the following :-

ORDER

HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant through this O.A has sought the following reliefs :-

1. Call for the records leading to Annexure A-4 and set aside the same to the extent it removes the trade "Engraver" and treats as stand alone trade.
2. Direct the respondents to consider the applicant's claim to be placed as Master Craftsman with immediate effect with effect from the date of promotion of his junior taking into account the service rendered by him in the erstwhile HS-I category.

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3. Declare that the applicant is entitled to be promoted as Master Craftsman with effect from the date of promotion of his junior taking into account the length of service he had in the erstwhile category of HS-I.

2. Briefly stated, the case of the applicant as per O.A is as under :- The applicant who is in the Highly Skilled – I category is aggrieved by the act of re-grouping his trade thereby denying him legitimate promotion to the post of Master Craftsman. He joined the services of the 3rd respondent in the year 1979 as Engraver Grade II. His initial appointment was on casual basis, however, he was regularised in service with effect from 7.2.1980. Prior to 4th Pay Commission, the industrial cadre had three tier hierarchy as follows :-

Grade II
Grade I
Mechanic

However, the hierarchy later was redrawn as below :-

Skilled (SK)
Highly Skilled Grade I (HS I)
Highly Skilled Grade II (HS II)

3. The applicant was promoted as Engraver Highly Skilled Grade I in 1986 and he has been continuing since then. With effect from 1.1.1996 the structure has been as below :-

| | |
|------------------------|--------------|
| Skilled (SK) | Rs.3050-4500 |
| Highly Skilled (HS) | Rs.4000-6000 |
| Master Craftsman (MCM) | Rs.4500-7000 |

Order dated 20.5.2003 Annexure A-1 refers. Total cadre strength will be apportioned between skilled and highly skilled in a ratio of 65:35. The post of Master Craftsman, though shown in the hierarchy is not a promotional post or next higher post for the purpose of ACP. However, 10% of senior

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most among HS i.e.3.5% will be placed in the post of MCM from 1.1.1996 to 20.5.2003. From the date of issue of Annexure A-1, the aforesaid ratio stands changed into 45:55. By virtue of implementation of Annexure A-1 restructuring, those who had been promoted to HS-I after 1996 by virtue of passing departmental Trade Test in supersession of their seniors who had failed to pass, would now be brought back to the HS-II stream and be placed below. This has resulted in a host of litigations and this Hon'ble Tribunal set aside the impugned provision which gives retrospective relaxation while introducing cadre restructuring vide Annexure A-2. In pursuance of the above order, the 1st respondent has issued an order dated 27.3.2006 holding that the individuals who got promotion by way of passing trade test etc. between 1.1.1996 and 19.5.2003 would en-block senior to those who got promotion as result of restructuring of cadre in relaxation of conditions of passing trade test. Annexure A-3 refers. The trade of "Engraver" is grouped and categorised as one of the trades coming under the broad category of Machinist. Since the applicant being the senior most person in the Highly Skilled category, is entitled to be placed as Master Craftsman in the higher scale.

4. The 3rd respondent has issued yet another order effective from 20.5.2003. In the said order it also classified trades wherein the trade "Engraver" which formed part of Machinist trade is shown separate as item (e). Since the sub trade "Engraver" has only two persons including the applicant, the ratio of posts introduced as per Annexure A-2 will not be made applicable and the applicant's right to be considered for the placement as Master Craftsman is lost once for all. The segregation of "Engraver" from the fold of Machinist is not warranted. The applicant is

now become eligible for 2nd financial upgradations under ACP. If he is granted the placement as Master Craftsman now he is likely to be placed in the next higher scale upon the grant of 2nd financial upgradation.

5. Respondents have contested the O.A. According to them, the case is as under :- Based on the recommendation of the 5th Central Pay Commission, during the year 2003 Government of India had restructured cadre of Industrial staff in the Defence with retrospective effect from 01st January 1996. After many deliberations at various levels, the respondents implemented the restructuring. While restructuring the post of Master Craftsman, each trade was considered independently for the said purpose. Opposing the independent consideration of placement of Master Craftsman, few industrial employees challenged the action of the respondents and prayed for grouping as was the system followed in the promotional hierarchy in the Industrial Cadre by filing O.A Nos.740/03, 741/03, 853/03 and 882/03 before this Tribunal. While considering these O.As this Hon'ble Tribunal declined to accept the stand of the respondents that the post of Master Craftsman was only a placement and not a promotional post. Accordingly, this Tribunal held that such placement to the post of the Master Craftsman should be made as per the same pattern, which is prevailing in the case of promotional hierarchy of the Industrial posts. Further, this Tribunal held that the promotions earned by the employee could not be taken away with an order effecting retrospectively. Taking these aspects into account this Tribunal quashed the retrospective effect of the restructuring order from 01st January 1996 and directed to issue an appropriate order on the same by their Annexure A-2 order.



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6. The applicant filed MA 63/07 in which he has added his representation dated 10.1.2007 requesting the respondents to include his name in the common seniority as Machinist at the appropriate place. Respondents have added to the file a copy of order dated 23.3.2007 It has also been stated by them that there exists separate Government sanctions for the posts of Engraver (Wood) and Engraver (Metal) in Naval Aircraft Yard, Kochi and Naval Armament Depot, Alwaye. Annexure R-3 and Annexure R-4 have been filed to confirm the above averment.

7. Arguments were heard and documents perused. With a view to ascertaining whether the post of Engraver Wood and Machinist have independent Recruitment Rules and seniority list, the seniority list was got produced by the respondents which shows that under one column the applicant figures at Serial No.3 which confirms that there is a common seniority of all Shipwrights and his seniors as well as juniors have been given ACP with effect from anterior dates. The respondents were not in a position to show that two different seniority lists, one for Engraver (Wood) and another for Engraver (Shipwright) have been prepared. It has also not been explained satisfactorily as to why this difference is shown in respect of ACP etc. for the post of Engraver (SK).

8. Considering the fact that the applicant has rich experience and also taking into account that seniority of the applicant is No.3 and others who are much junior to the applicant have all been conferred the position of Master Craftsman with effect from 20.5.2003 and later also afforded ACP, 2nd financial upgradation with effect from the completion of 24 years of service and that the applicant alone has been kept high and dry we feel

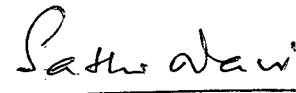
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that under no reasonable norms this can be held to be justified. Once an individual is slotted in a particular seniority, the benefit available by virtue of the seniority position should also be made available. Viewed from this angle, the applicant is entitled to be considered for the post of MCM from the date his junior has been positioned, namely, 20.5.2003 though not earlier. The O.A is allowed to the above extent. This order shall be complied with within a period of three months from the date of communication of this order. No costs.

(Dated the 29th day of June 2007)



K.B.S.RAJAN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN

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