

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.NO.465/2007

this the 11th day of March, 2009

C O R A M

**HON'BLE DR. K.B.S. RAJAN, JUDICIAL MEMBER
HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

N. Jayadevan S/o late Narayanan
working as Fitter General Mechanic (Highly Skilled)
FGM HS, MES No.225027, AGE, E/M-11
Cochin Naval Base PO, Cochin-4
residing at MES Quarters No. 102/3
Kataribagh, Naval Base PO
Kochi.

Applicant

By Advocate M/s P. Santhalingam & Mrs. K. Usha

Vs

1 Union of India repre. by the
Secretary to Government
Ministry of Defence
Government of India
New Delhi.

2 Garrison Engineer (I)
E/M (NW), Kataribagh

3 The Chief Engineer (Navy)
Kochi.

4 Engineer- in -Chief
Army Head Quarters
DHQ (PO), New Delhi.

Respondents.

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

This Original Application having been heard on 25.2.2009 the Tribunal delivered the following

O R D E R

HON'BLE MRS. K.NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant is aggrieved by action of the respondents in promoting juniors to the post of Master Craftsman overlooking his station seniority.



2 The facts in brief are that the applicant joined the Military Engineering Service, Kochi as Driver Engine Statics in the year 1972. The applicant passed the eligibility test in 1981 itself. In the normal course, he ought to have been promoted as Fitter General Mechanic (FGM for short). However, FGM from other stations were transferred to Kochi on compassionate grounds and three Engine Fitters in other stations were promoted as FGM. He submitted several representations but still he is continuing in the same post. As per letter dated 8.10.1986 the station seniority is the eligibility criterion. Trade test for promotion to FGM (HSII) was conducted on 23.3.1995 and his juniors were promoted. They were again promoted to FGM (HS-I) and then further promoted as Master Craftsman. The applicant submitted repeated representations. The 2nd respondent replied stating that applicant's seniority has been assigned only from the date he reported for duty in the new formation as per the existing rules. The applicant submitted that the two individuals mentioned in Annexure A-VI joined the station in 1989 whereas the applicant joined in 1985. Challenging the inaction on the part of the respondents the applicant filed O.A. 173/2007 before the Tribunal which directed to dispose of the representation of the applicant. The 2nd respondent disposed the representation without going into the legal issues stating that the seniority of the applicant has been assigned only w.e.f. 22.4.1985. Hence he filed this O.A. on the ground that station seniority is the criterion for promotion.

3 The respondents in their reply statement contested the claim of the applicant. They submitted that consequent on re-designation of certain trades, the applicant's trade was redesignated as Fitter General Mechanic (Skilled) w.e.f. 6.7.1994. For further promotions in the new trade, the applicant had to pass the trade test (Annexure R-1). Paragraph 5 of the letter

TH

states that promotion to FGM(HS-II) will be subject to passing of Trade Test followed by rendering a minimum of three years service. The applicant had passed the trade test only on 27.2.2002 and promoted to FGM (HS-II) w.e.f. 30.1.2004 with ante-dated seniority w.e.f. 20.5.2003. Therefore, he cannot be promoted w.e.f. June, 1981. There is no hard and fast rule that transfer from other stations should not be made. The applicant himself was transferred to Kochi on compassionate grounds from GE 859 EWS C/o 56 APO. They have admitted that the applicant passed trade test for Engine Fitter in 1981 but consequent to his re-designation as Fitter General Mechanic he had to pass trade Test for Fitter General Mechanic Highly Skilled-II and complete minimum three years of service in the grade to become eligible for further promotions. The applicant passed the requisite trade test only on 27.2.2002 and accordingly he was promoted w.e.f. 30.1.2004. They have denied that the applicant was exempted from trade test held on 23.3.1995. The individuals referred by the applicant were admittedly juniors to the applicant but they passed the trade Test in March, 1995 much earlier than the applicant.

4 The applicant in the rejoinder submitted that no test was conducted in February, 2002. The applicant passed HS-II test as early as on 1981 itself and HS-I in 2001. According to the applicant the re-designated DES category as FGM(SK) is not applicable in the case of the applicant since he passed HS-II in 1981 itself.

5 The respondenets have filed additional reply statement reiterating their stand in the reply statement that the applicant passed the trade test for FGM(HS)Grade-II held in 16 October, 2001 and result published on 27.2.2002. They further submitted that the E-in-C, the competent authority



issued the relevant rulings on 21.7.1994 on the subject and that the applicant was assigned seniority only w.e.f. 6.7.1994.

6 The applicant has filed an additional rejoinder stating that the new norms are not applicable because when he was transferred to Cochin in 1985 on compassionate ground he was qualified for the post of Engine Fitter which is equal to HS-II. The applicant was not allowed to appear for the test since he was already qualified HS-II. (A-1) in 1981. According to him he was eligible for promotion to the post of Master Craftsman from the year 1996.

7 We have heard learned counsel appearing for the parties, gone through the pleadings and perused the records produced before us.

8 The learned counsel for the applicant strenuously argued that the applicant had already passed the HS-II (Engine Fitter) and that he was overlooked for promotion from 1985 onwards. Relying on Annexure A-1 the counsel argued that the concerned authorities made clear that the applicant having already qualified the trade test, need not appear again. The counsel argued that the applicant is eligible for promotion to the post of Master Craftsman from 1996 onwards along with others.

9 The learned counsel for the respondents on the other hand argued that the applicant has passed Trade Test for Engine Fitter trade, the applicant has been re-designated as Driver Engine Static (DES) and further designated to Fitter General Mechanic (FGM) and that Engine Fitter was not in line of promotion as DES and Engine Fitter had identical pay scales. Thus the applicant stands re-designated as Fitter General Mechanic -Skilled post w.e.f. 6.7.1994 and that for further promotion to FGM (HS-II) he has to pass the

ty

Trade Test and complete a minimum period of three years service in accordance with the new re-designation policy and that the trade test passed prior to that would be null and void. The applicant passed the Trade Test for FGM (HS) during March, 2002 and promoted w.e.f. 20.5.2003 .

10 According to the respondents, consequent to a change in Policy, the Driver Engine Static was re-designated as Fitter General Mechanic it was made clear that the personnel would be eligible for promotion to Fitter General Mechanic HS II subject to passing of Trade Test and having rendered a minimum of three years service. It also made clear that future entry into trade made after the existing the promotional and other avenues will be redesignated as Fitter General Mechanic (SK) at semi skilled level with ITI qualification and that all the existing tradesmen will be re-designed as Fitter General Mechanic (SK) from 6th July, 1994 and effective date of their further promotion to HS-II would be on the date of assuming new appointment. Therefore, it was made clear that on implementation of the re-designation of the employees like the applicant, they will have to appear and pass the trade test for promotion to FGM (HS-II).

11 The ground in support of the claim of the applicant is that for promotion purposes, station seniority is the criteria^{on} and he having qualified in the trade test in 1981 itself, even if date of passing the trade test is taken into account, it was the applicant and not juniors to him who should have been promoted as Highly Skilled Grade-I. A perusal of the record shows that though initially the respondents themselves indicated that the applicant earlier having qualified in the trade test need not to appear again vide letter dated 11.07.2001 from the Commander Works Engineers, Kochi, addressed to the Chief Engineer (Navy), Kochi, it is evident from page 5 of GE E/M Kochi

74

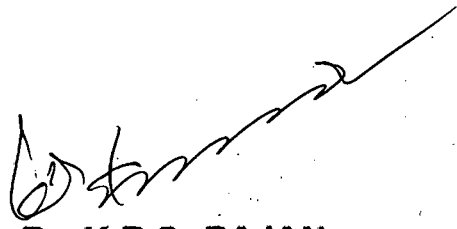
PTO No. 11/2002 dated 19th March, 2002, that the applicant had appeared in the trade test for FGM HS Grade-I held on 16th October, 2001 and qualified in the same. By that time, the juniors to the applicant had already qualified in the trade test for FGM HS Grade-I. The eligibility for consideration for promotion is on the basis of seniority amongst trade test qualified individuals. From that point of view, well before the applicant could qualify the trade test (FGM HS Grade-I), juniors having qualified in the trade test years in advance and have already been promoted to the said grade. In any event, the applicant has been afforded the benefit of ACP on completion of 24 years reckoning from the date of his initial appointment.

12 In view of the above, the applicant is not entitled to promotion on the basis of his station seniority. The O.A. is, therefore, dismissed. No costs.

Dated 11th March, 2009.



K. NOORJEHAN
ADMINISTRATIVE MEMBER



Dr. K.B.S. RAJAN
JUDICIAL MEMBER

kmn