

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

ORIGINAL APPLICATION No. 87/87

1. K.N.Venugopalan Pillai,
S/o Narayanan Pillai, Sheet
Metal Worker (SK), N.A.Y., Southern
Naval Command, Cochin.
2. E.P. Mani, S/o Purushothaman,
Sheet Metal Worker, (HSK-II), N.A.Y.,
Southern Naval Command,
Cochin.
3. M.O. Varghese, S/o M.V.Ouseph,
Sheet Metal Worker (H.S.K. II)
Southern Naval Command, Cochin.
4. K.K. Chandrabose, S/o K.Kunjan
-do- -do-
5. A.V.Karunakaran, S/o Kochuvelu,
Sheet Metal Worker (SK), -do-
6. K.A. Raveendran, S/o K.K. Ayya,
Sheet Metal Worker (SK), -do-

--- Applicants

Versus

1. The Flag Officer Commanding in
Chief, Southern Naval Command,
Cochin.
2. The Chief of Naval Staff, Naval
Headquarters, New Delhi.
3. Captain Superintendent,
N.A.Y., Cochin.
4. Union of India represented
by the Chief Secretary to
Government of India, New Delhi,

--- Respondents

Mr. P.V.Narayanan Nambiar - Counsel for Applicants

Mr. K.Karthikeya Panicker,
ACGSC - Counsel for Respondents

CORAM

Hon'ble Shri Justice G.Ramanujam - Vice-Chairman
&
Hon'ble Shri C.Venkataraman - Member(Admve).

O R D E R
(Pronounced by Hon'ble Admve Member Shri C.Venkataraman)

This is an application by K.N.Venugopalan Pillai
and 5 others working as Sheet Metal Workers in different

grades in the Naval Air Craft Yard, Cochin. They are aggrieved by a communication dated 24.7.86 issued by the Civil Administrative Officer in the Naval Aircraft Yard, Cochin, (NAY(C)) for short. In the said communication one of the applicants was informed that the Departmental qualifying test for employees working as Sheet Metal Worker (SK) in NAY(C) is to be held separately and accordingly his name could not be included in the forthcoming Departmental Test. The case of the applicants is that when they all joined service, they had adequate promotion opportunities subject to their passing the promotion test. Such promotion tests were being conducted for all Industrial workers working in all establishments under the Southern Naval Command. According to the applicants, workers working in any of the establishments such as NAY(C), Base Repair Organisation, Command Transport Workshop, INS Garuda etc., could appear for promotion test irrespective of the establishment in which they were working. While so, when the 5th applicant applied for the Departmental Promotion Test for the post of Sheet Metal Worker HSK-II in various establishments under the Southern Naval Command, his application was

rejected. Thereafter he sent a representation on 19.7.86 for which he received the impugned communication of 24th July, 1986, according to which the employees working in the grade of Sheet Metal Workers in INS Garuda and NAY(C) were grouped into a ~~common~~ command roster and they could not no longer appear for promotion tests in other establishments such as for the post of Sheet Metal Worker in Base Repair Organisation. This has resulted in persons junior to the applicants securing promotion in other establishments, as Sheet Metal Worker ~~Grade~~ ^{HS} II.

The learned counsel for the applicants stated before us that the separation of the cadre of Sheet Metal Workers working in NAY(C) from the common command roster had adversely affected the chances of promotion of the applicants. As compared to a larger area ~~where~~ they could secure promotions, the applicants have now to seek their chances of promotion only in the NAY(C).

All the other workers except Sheet Metal Workers, were still allowed to appear for promotion test in all other establishments. The learned counsel contended that there was no justification in singling out the Sheet Metal Workers in NAY(C) for a different treatment. As this had practically resulted in the stagnation

of persons like the applicants, he prayed for a declaration that the applicants also are entitled to be considered for promotion alongwith other tradesmen in all the establishments under the Southern Naval Command. He also prayed that the separation of the Sheet Metal Workers cadre in NAY(C) from the Command roster be declared as illegal and consequently to declare further, that all promotion decisions conducted in accordance with Circulars Nos. 45/86, 94/86 and 6/86 be declared as illegal and hence quashed. He took pains to highlight the facts that as compared to the comparatively bright chances for promotion which the applicants had when they entered service, all on the sudden ~~that~~ ^{Their} future has become very bleak. This was the result of separation of their cadre from the command roster. According to the learned counsel for the applicants, the nature of work of the Sheet Metal Workers in the Naval Aviation Branch and the Ship Based Branch was the same and hence there was no justification for the bifurcation of the cadre. He also stated that before such bifurcation of the cadre, willingness of the employees was not asked for and they were not even consulted. The separation was unilaterally

decided. For these reasons he prayed that the application be allowed.

On behalf of the respondents it was stated by the learned counsel that the categories of Sheet Metal Workers were common to many units under the Southern Naval Command till July, 1983. A review ~~short~~ was conducted ~~at~~ that time and it was found that the nature of Sheet Metal trade work in the Naval Aircraft Yard, INS Garuda and NAIS, Cochin, which are all engaged in Aircraft structural work, is different from the work performed in the Base Repair Organisation, Cochin and other units ~~as~~ were tradesmen of this category are doing Sheet Metal Work pertaining to ships ~~or~~ or other similar vessels. Therefore, it was found necessary to bifurcate the cadre of Sheet Metal Workers in NAY(C), INS Garuda and NAIS from similar trades in other units. The learned counsel for the respondents pointed out that Sheet Metal Workers in the NAY(C) had a channel of promotion from Skill to Highly Skilled Grade II and from Highly Skilled Grade II to Highly Skilled Grade I. Therefore, he pointed out that it was not correct to say that there were no promotion opportunities to persons like the applicants as a result of the bifurcation of the cadre. Since bifurcation of the trade into two

different groups has been done for technical reasons due to the special nature of works involved in aviation sheet metal work and as promotion opportunities existed within the group for NAY(C) while maintaining continuity of personnel doing specialised nature of work, he prayed that the application be dismissed.

It is now well established that Recruitment Rules can be changed by the competent authority. Such ^{aspects} change can deal with all ~~establishment~~ relating to Recruitment to a post such as method of recruitment, the eligibility criteria like educational qualification, age, length of service in the lower ~~cadre~~ ^{post} etc., and the feeder categories from which the promotions are to be made. It is open to the competent authority to enlarge or restrict the area from which persons are to be selected for promotion to a post. In this case it has been brought out by the respondents that as a result of a review conducted, it came to light that the nature of work performed by the Sheet Metal Workers in the Naval Aircraft Yard, INS Garuda and NAIS, Cochin ^{was} ~~were~~ different, because they had to deal with Aircraft structural work as compared to other Sheet Metal Workers employed in establishments like Base Repair Organisation. The latter had to deal with Sheet Metal Work pertaining to ships. Continuity

had also to be maintained of persons performing the type of specialised work in Aviation Sheet Metal Work which is being done in an establishment like NAY(C). It is for these reasons that Sheet Metal Workers in NAY(C), INS Garuda and NAIC have been separated from the command roster and were excluded for the purpose of promotion in other establishments. These workers have their own avenues of promotion. We do not find anything illegal or discriminatory in the change which has been brought about. The learned counsel for the applicant brought to our notice that the chances of promotion of the applicants had been substantially reduced as a result of bifurcation of cadre. Chances of promotion is something which keeps on changing from time to time and there is no inherent right for anybody to retain the chances of promotion as it existed at the time of his entry into government service for various posts till he retires from service. The administration cannot remain static for all time to come and changes are bound to be made in a fast changing economy. When such changes take place, only vested legal rights can be preserved. Mere chance of promotion is not such a right.

In the light of the above the application is

dismissed. If as claimed by the learned counsel for the applicants that there is hardly any promotion opportunity available for the applicants and that it would cause complete stagnation for them in their official career thereby leading to frustration, it is for them to make out a suitable case and represent the matter to the departmental authorities concerned for proper consideration. The dismissal of this application is without prejudice to any such representation being made by the applicants to the respondents for their consideration.

C Venkataraman
29/1/88

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(C. Venkataraman)
Admve. Member
29-1-1988

(G. Ramanujam)
Vice-Chairman
29-1-1988

Index: Yes ~~100~~

Su.