

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 109 of 2012

Wednesday....., this the 12th day of December, 2012

CORAM:

**HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

1. K. Vijayan, S/o. Gopalan Nambiar,
MES No. 109893, Chowkidar,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
2. K.G. Rajan, S/o. K.K. Gopalan,
MES No. 109882, Safaiwala,
Office of the Garrison Engineer (Electrical Mechanical),
Naval Works, Naval Base (P.O),
Kataribagh, Kochi – 682 004.
3. K. Madanan, S/o. N. Krishnan,
MES No. 109840, Safaiwala,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
4. K.A. Rajappan, S/o. Ayyer,
MES No. 109946, Chowkidar,
O/o. The Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
5. N.C. Subramanian, S/o. Chanjan,
MES No. 109861, Chowkidar,
Office of the Garrison Engineer (Naval Works),
North Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
6. Ajeesh P. John, S/o. P.K. Johny,
MES No. 138274, Chowkidar,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
7. K. Syamala, D/o. Damodaran,
MES No. 138200, Safaiwala,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.



8. C.A. Sebastian, S/o. C.P. Antony,
MES No. 109839, Safaiwala,
Office of the Garrison Engineer (Naval Works),
North Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
9. V. Sarasamma, D/o. Raman,
MES No. 138214, Safaiwala,
Office of the Garrison Engineer (Naval Works),
North Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
10. K. Bhaskaran, S/o. V. Kunhambu,
MES No. 187937, Chowkidar,
Office of the Garrison Engineer (Independent)
Maintenance, Military Engineer Services,
Naval Academy, Ezhimala – 670 310.
11. P. Babu, S/o. Kunhiraman,
MES No. 608452, Chowkidar,
Office of the Garrison Engineer (Independent)
Maintenance, Military Engineer Services,
Naval Academy, Ezhimala – 670 310.
12. P.K. Chellamma, D/o. Kuttan,
MES No. 187085, Safaiwala,
Office of the Assistant Garrison Engineer (Independent)
Research Development, Military Engineer Services,
Thrikkakkara Post, Kakkanad, Kochi – 682 021.
13. M. Anil Kumar, S/o. Late K.K. Madhava Kurup,
MES No. 187932, Chowkidar,
Office of the Assistant Garrison Engineer (Independent)
Research Development, Military Engineer Services,
Thrikkakkara Post, Kakkanad, Kochi – 682 021.
14. K.M. Omana, W/o. Varghese George,
MES No. 187938, Safaiwala,
Office of the chief Engineer (Naval Works),
Military Engineer Service, Kataribagh,
Naval Base (P.O), Kochi – 682 004.
15. M. Chandran, S/o. Late Malingu Naik,
MES No. 605 156, Chowkidar,
Office of the Assistant Garrison Engineer (Independent),
Research Development, Military Engineer Services,
Thrikkakkara Post, Kakkanad, Kochi – 682 021.

- Applicants

(By Advocate Mr. P.K. Madhusoodhanan)

versus



1. The Chief Engineer (Naval Works),
Military Engineer Services,
Kataribagh, Naval Base (P.O),
Kochi – 682 004.
 2. The Commander Works Engineer (Naval Works),
Military Engineer Services, Kataribagh,
Naval Base (P.O), Kochi – 682 004.
 3. The Chief Engineer,
Head Quarters, Southern Command,
Engineers' Branch, Pune – 411 001.
 4. Engineer-in-Chief,
Engineer-in-Chief's Branch,
Army Headquarters, DHQ (P.O),
New Delhi – 110 001.
 5. Union of India represented by its
Secretary, Ministry of Defence,
Central Secretariat, New Delhi – 110 001.
 6. Garrison Engineer (Independent) Maintenance,
Military Engineer Service, Naval Academy,
Ezhimala – 670 310.
 7. Assistant Garrison Engineer (Independent)
Research & Development, Military Engineer Services,
Thrikkakkara Post, Kakkanadu,
Kochi – 682 021.
- Respondents.

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

This application having been heard on 16.11.2012, the Tribunal on 12.12.12... delivered the following:

ORDER

By HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

The applicants were initially appointed in the posts of Chowkidar/Safaiwala, which were unskilled non-industrial Group-D posts, during the period from 18.04.1988 to 14.12.2000. They had opted for promotion to the semi skilled industrial posts for which they had passed the




respective trade tests. On the recommendations of the VIth Central Pay Commission, the pay scales of unskilled and semi skilled worker (Mate) were merged together in PB-1 of Rs. 5200-20200 plus Grade Pay of Rs. 1800/- as per Annexure A-3. The applicants were redesignated as Mates. The merger was, however, kept in abeyance as per Annexure A-12 in respect of Chowkidars and Safaiwalas only, leaving the Mazdoors who are juniors to the applicants in the seniority list at Annexure A-2 unaffected. Mazdoors are now proposed to be considered for promotion to the skilled posts. Aggrieved, the the applicants have filed this O.A for the following reliefs:

- (i) Declare that the applicants are eligible and entitled to be considered and merged/redesignated as Mate as ordered in Annexure A-3, A-6 to A-9 and the like and with all the attendant benefits, including monetary benefits with arrears arising therefrom;
- (ii) Issue necessary directions to the respondents to grant the applicants redesignation/merger as Mate as ordered in Annexures A-3, A-6 to A-9 and similar orders, untrammelled by Annexures A-12, A-13 and A-14 with all consequential benefits, including arrears arising therefrom and disburse the same forthwith, at any rate within a time limit to be fixed by the Hon'ble Tribunal;
- (iii) Issue necessary directions to the respondents to grant and disburse to the applicants the benefits of the order at Annexure A-3 forthwith in preference to their juniors, with anterior dates eligible to them than their juniors, untrammelled by Annexures A-12, A-13 and A-14;
- (iv) Issue necessary directions to the respondents not to unsettle the seniority of the applicants in Annexure A-2 with that of the Mazdoors juniors to them therein, pursuant to Annexures A-12, A-13 and A-14 orders, and not to conduct proceedings to grant them promotion to skilled posts in preference to the applicants who are seniors to them.;
- (v) Award costs of these proceedings; and
- (vi) Grant such other and further reliefs as this Hon'ble Tribunal deems fit and proper.



2. The applicants contended that Annexure A-12 is arbitrary, discriminatory and opposed to Annexure A-3. Consequential orders at Annexures A-13 and A-14 are, therefore, liable to be set aside. Although they were granted Group-C post of Mate, the same has been cancelled without any justifiable reasons, in clear violation of principles of natural justice. The clarification sought by the 3rd respondent from the 4th respondent is not a justifiable reason to cancel the merger of the posts as Mate as per Annexure A-3. They would lose seniority for no fault of theirs. Their settled service conditions are adversely affected resulting in senior becoming junior affecting their career progression. The order passed by the higher authority at Annexure A-3 cannot be cancelled by the lower authority as done herein. The applicants are also eligible to be considered for skilled posts. Those Mazdoors who are juniors to the applicants in Annexure A-2 had already been granted the designation as Mates and they are going to be considered and promoted to skilled posts in preference to the applicants.

3. The respondents in their reply statement submitted that it was clarified vide letter dated 14.02.2012 received under letter dated 29.02.2012 that Chowkidars/Safaiwalas are non industrial category and hence those posts cannot be merged with Mate which is an industrial category post. However, those Chowkidars/Safaiwalas who had already been promoted as Mates before the date of issue of letter dated 08.02.2011 would remain so and they should not be demoted.. They have acted as per the clarification received from the competent authority. Therefore, their action cancelling the reclassification of the applicants from Chowkidars/Safaiwalas to Mates is in order.



4. In the rejoinder statement, the applicants submitted that the Chowkidar/Safaiwala and the Mazdoor (Unskilled) have been in the feeder categories for Mate (Semi Skilled) and they were further promoted to various skilled trades in the industrial category. Accordingly, a common service seniority list of Chowkidar, Safaiwala and the Mazdoor ^{is} ~~are~~ maintained. The clarification given by the 4th respondent in the letter dated 14.02.2012 appears to be contrary to the established position with reference to the career prospects of Chowkidar and Safaiwala in the MES. The differentiation of Chowkidars/Safaiwalas who have been promoted as Mates before 08.02.2011 and promoted thereafter is unreasonable. True copy of the letter dated 29.02.2012 has not been produced by the respondents, nor the letter dated 14.02.2012. The applicants who were waiting for promotion are now deprived of their further career prospects in service as only Mazdoors have been merged with Mate (Semi Skilled) with effect from 09.09.2008. Even those Mazdoors who are juniors to the applicants in the common seniority list, have been given the benefit of Annexure A-3.

5. We have heard Mr. P.K. Madhusoodhanan, learned counsel for the applicants and Mr. Sunil Jacob Jose, SCGSC, appearing for the respondents and perused the records.

6. As per Annexure A-2 seniority list, Chowkidar/Safaiwala/Mazdoor are having a common integrated seniority list. They are all unskilled workers as per Annexure A-3 dated 08.02.2011. All unskilled trades were merged with corresponding semi skilled trades with effect from 09.09.2008. Annexure A-3



does not discriminate against any unskilled category. The respondents uniformly implemented the merger, treating Chowkidars and Safaiwalas as unskilled workers for the purpose of their promotion to the industrial line as they had already passed the trade test for promotion to the semi skilled category. But the letter dated 14.02.2012 from the competent authority received under letter dated 29.02.2012 clarified that being non industrial posts, the posts of Chowkidar/Safaiwala cannot be merged with the post of Mate and that those who have already been promoted as Mate before the issue of letter dated 08.02.2011 would remain so and they should not be demoted. Neither the letter of 14.02.2012 nor the letter of 29.02.2012 is produced by the respondents. What is produced at Annexure R-1 is the letter dated 08.02.2011 available at Annexure A-3. The action taken by the respondents show that these letters travel in a direction reverse to the policy of the Government to integrate the cadres consequent to VIth CPC. They segregate the Chowkidars/Safaiwalas from the Mazdoors and nullify their promotion prospects inspite of the integrated seniority list and inspite of being in the feeder cadres and qualified for promotion to the post of Mate as per the Recruitment Rules. This is patent discrimination against the Chowkidars and Safaiwalas which is further aggravated by the division of Chowkidars and Safaiwalas by imposing the fortuitous cut off date of 08.02.2011 to protect those who have already been promoted as Mate. Those Chowkidars and Safaiwalas who could not be promoted before 08.02.2011 are left in the lurch. When the Mazdoors who are juniors to the applicants are made Mates, denial of the same to the applicants who are fully qualified for promotion as Mate is a clear violation of settled service conditions and the principle of equality and equality of opportunity enshrined in Articles 14 and 16 of the Constitution of



India. The author of Annexure A-12 who requested to keep in abeyance the merger of Chowkidar and Safaiwala with Mate (Semi Skilled) till further orders perhaps, did not realise what it does to the applicants who are subjected to discrimination, denial of natural justice and denial of consideration for promotion. Hence, in the interest of justice, the O.A is allowed as under.

7. Annexures A-12 dated 30.11.2011, A-13 dated 19.12.2011 and A-14 dated 19.12.2011 are quashed. The respondents are directed to grant all the benefits of the order at Annexure A-3 dated 08.02.2011 forthwith as well as to consider them for promotion to skilled posts keeping in mind their seniority in Annexure A-2 seniority list.

8. No order as to costs.

(Dated, the 12th December, 2012)



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

cvr.

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH


Review Application No. 9 of 2013
in
Original Application No. 109 of 2012


FRIDAY, this the 30th day of August, 2013

CORAM:

Hon'ble Dr. K.B.S. Rajan, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

1. J. Manikuttan, Aged 51 years,
MES 196319, Mate (SS),
S/o K. Janardhanan Pillai,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
2. K. Devarajan, Aged 52 years,
MES 604632, Mate (SS),
S/o Kunju Panikkan,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
3. V.S.Unnikrishnan, Aged 46 years,
MES 604661, Mate (SS),
S/o Velayudhan Achari,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
4. K.Mohan Kumar, Aged 57 years,
A 6403763, Mate (SS),
S/o Krishna Pillai,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
5. M.Vijayan, Aged 53 years,
MES 109885, Mate (SS),
S/o Marcose,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
6. T.K.Ravi Kumar, Aged 56 years,
MES 109818, Mate (SS),
S/o Kesavan
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.

7. C. Omana, Aged 59 years,
MES 109994, Mate (SS),
W/o late K. Vasu,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
 8. K. Indira, Aged 42 years, MES 187110, Mate (SS),
W/o late Bhuvanachandran,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
 9. V. Sulochana, Aged 58 years,
MES 109972, Mate (SS),
W/o late K. Samban
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
 10. J. Mary Vimala, Aged 53 years,
MES 604434, Mate (SS),
W/o late S. John,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
 11. D. Johnse, Aged 33 years,
MES 604683, Mate (SS),
S/o David J.,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
 12. T. Chandran, Aged 57 years,
MES 109507, Mate (SS),
S/o Thankappan,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
 13. D. Pradeep Kumar, Aged 56 years,
MES 604631, Mate (SS),
S/o N. Divakaran,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
 14. Mariamma George, Aged 53 years,
MES 269014, Mate (SS),
W/o late T. Chandran,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
- 

15. K.R.Thararani, aged 50 years,
A 486060, Mate (SS),
W/o late P.Madusoodhanan Pillai,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
 16. K.P.Viswanathan, Aged 52 years,
MES 109502, Mate (SS),
S/o Parameswaran Nair ,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
 17. K.Sasidharan Nair, aged 48 years,
MES 109868, Mate (SS),
S/o Karunakara Pillai,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
 18. B.Padmanabhan Nair, Aged 48 years,
MES 198101, Mate (SS),
S/o P.Balakrishnan Nair,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
 19. V.Mohanan, Aged 53 years,
MES 109866, Mate (SS),
S/o K.Vasudevan,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
 20. S.Basheer, Aged 48 years,
MES 109832, Mate (SS),
S/o Sulaiman Kunju,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
 21. Reeja A.V., Aged 27 years,
MES 604694, Mate (SS),
W/o Musammil ,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
 22. T.Retnakumari, Aged 42 years,
MES 187566, Mate (SS),
W/o N.Sreekumaran Nair,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.
- 

23. V.Gopakumar, Aged 43 years, MES 604662, Mate (SS),
S/o Velayudhan Pillai,
O/o the Garrison Engineer (Army),
Thirumala P.O., Trivandrum-695 006.

..... **Review**
Applicants/
Not parties in OA


(By Advocate – Mr. S. Radhakrishnan)

V e r s u s

1. The Chief Engineer (Naval Works),
Military Engineer Services,
Kataribagh, Naval Base (P.O),
Kochi - 682 004.
2. The Commander Works Engineer (Naval Works),
Military Engineer Services, Kataribagh,
Naval Base (P.O), Kochi - 682 004.
3. The Chief Engineer,
Head Quarters, Southern Command,
Engineers' Branch, Pune - 411 001.
4. The Engineer-in-Chief,
Engineer-in-Chief's Branch,
Army Headquarters, DHQ (P.O),
New Delhi - 110 001.
5. Union of India represented by its
Secretary, Ministry of Defence,
Central Secretariat, New Delhi - 110 001.
6. Garrison Engineer (Independent) Maintenance,
Military Engineer Service, Naval Academy,
Ezhimala - 670 310.
7. The Assistant Garrison Engineer (Independent)
Research & Development, Military Engineer Services,
Thrikkakkara Post, Kakkanadu,
Kochi - 682 021.
8. K. Vijayan, S/o. Gopalan Nambiar,
MES No. 109893, Chowkidar,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),

..... **Respondents/**
Respondents in the OA

Kochi - 682 004.

9. K.G. Rajan, S/o. K.K. Gopalan,
MES No. 109882, Safaiwala,
Office of the Garrison Engineer (Electrical Mechanical),
Naval Works, Naval Base (P.O),
Kataribagh, Kochi - 682 004.
 10. K. Madanan, S/o. N. Krishnan,
MES No. 109840, Safaiwala,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi - 682 004.
 11. K.A. Rajappan, S/o. Ayyer,
MES No. 109946, Chowkidar,
O/o. The Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi - 682 004.
 12. N.C. Subramanian, S/o. Chanjan,
MES No. 109861, Chowkidar,
Office of the Garrison Engineer (Naval Works),
North Kochi, Kataribagh, Naval Base (P.O),
Kochi - 682 004.
 13. Ajeesh P. John, S/o. P.K. Johny,
MES No. 138274, Chowkidar,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi - 682 004.
 14. K. Syamala, D/o. Damodaran,
MES No. 138200, Safaiwala,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi - 682 004.
 15. C.A. Sebastian, S/o. C.P. Antony,
MES No. 109839, Safaiwala,
Office of the Garrison Engineer (Naval Works),
North Kochi, Kataribagh, Naval Base (P.O),
Kochi - 682 004.
 16. V. Sarasamma, D/o. Raman,
MES No. 138214, Safaiwala,
Office of the Garrison Engineer (Naval Works),
North Kochi, Kataribagh, Naval Base (P.O),
Kochi - 682 004.
- 

17. K. Bhaskaran, S/o. V. Kunhambu,
MES No. 187937, Chowkidar,
Office of the Garrison Engineer (Independent)
Maintenance, Military Engineer Services,
Naval Academy, Ezhimala - 670 310.
18. P. Babu, S/o. Kunhiraman,
MES No. 608452, Chowkidar,
Office of the Garrison Engineer (Independent)
Maintenance, Military Engineer Services,
Naval Academy, Ezhimala - 670 310.
19. P.K. Chellamma, D/o. Kuttan,
MES No. 187085, Safaiwala,
Office of the Assistant Garrison Engineer (Independent)
Research Development, Military Engineer Services,
Thrikkakkara Post, Kakkanad, Kochi - 682 021.
20. M. Anil Kumar, S/o. Late K.K. Madhava Kurup,
MES No. 187932, Chowkidar,
Office of the Assistant Garrison Engineer (Independent)
Research Development, Military Engineer Services,
Thrikkakkara Post, Kakkanad, Kochi - 682 021.
21. K.M. Omana, W/o. Varghese George,
MES No. 187938, Safaiwala,
Office of the chief Engineer (Naval Works),
Military Engineer Service, Kataribagh,
Naval Base (P.O), Kochi - 682 004.
22. M. Chandran, S/o. Late Malingu Naik,
MES No. 605 156, Chowkidar,
Office of the Assistant Garrison Engineer (Independent),
Research Development, Military Engineer Services,
Thrikkakkara Post, Kakkanad,
Kochi - 682 021.

..... Respondents/
Applicants in the O.A.

**[By Advocates – Mr. Sunil Jacob Jose, SCGSC (R1-7) &
Mr. P.K. Madhusoodhanan (R8-22)]**

This Review Application having been heard on 21.08.2013, the
Tribunal on 30-08-13 delivered the following:

/

ORDER


By Hon'ble Mr. K. George Joseph, Administrative Member-


The Review Applicants were not parties to the Original Application No. 109/12. They are the senior most trade test qualified Mates. They are aggrieved by the Annexure RA/4 order dated 12.12.2012 in OA No. 109 of 2012 directing the official respondents to grant all the benefits in the order at Annexure A3 dated 8.2.2011 and to consider the applicants therein for promotion to the skilled post keeping in view their seniority in Annexure A2 seniority list therein.

2. The Review Applicants contended that there are clear errors apparent on the face of the record in Annexure RA/4 order which are as follows:-

a) This Tribunal failed to take into account the integrated Head Quarters of Ministry of Defence (Army, Navy & Air), Integrated Defence Staff Head Quarters and Inter Service Organization (Group C Post) Recruitment Rules, 2010, notified under SRO No. 53, dated 27.11.2010 re-designating as Multi Tasking Staff and providing separate promotion opportunities for Peon, Safaiwala, Daftry, Mali, Chowkidars etc. in the non-industrial line.

b) The Tribunal failed to appreciate the fact that once 2010 recruitment rules re-designating Peon, Safaiwala, Daftry, Mali, Chowkidars etc. to MTS (Group C), by necessary implication Annexure A1 (Group D) recruitment rule will stand superseded and has no application whatsoever after 27.11.2010.




- c) This Tribunal failed to take into account Annexure RA/2 re-designation orders of Chowkidars, Safaiwala, Daftry, Peon etc. as Multi Tasking Staff (Gen.) or as Multi Tasking Staff (House Keeping)/house keeping.
- d) This Tribunal failed to appreciate the fact that Annexure A3 order was issued for the purpose of merger of Mazdoor (unskilled) and Mate (semiskilled) to the new cadre of Mate (SS) as provided under the CDS (RP) Rules, 2008.
- e) Even though Annexures RA/1 and RA/2 documents were produced along with Annexure RA/3 and the documents were discussed in Annexure RA/4 order they were not appreciated and not taken into account stating that the same were not produced.
3. In the reply statement filed on behalf of respondents Nos. 8 to 22 it was submitted that the review applicants have no locus standi to seek review of the order in OA No. 109 of 2012 as they are not necessary parties and no reliefs have been claimed against them. The grounds of review as laid down in Order 47 Rule 1 of C.P.C. are not satisfied because there is no mistake or error apparent on the face of the record. The review applicants are not persons aggrieved as contemplated in the Administrative Tribunals Act, 1985. Annexure RA/2 is only a draft proposal which is not made final even today. Even the respondents Nos. 1 to 7 (Review Applicants in RA No. 10 of 2013) have no claim that RA/2 is finalized. Annexure RA/4 is perfectly legal and valid and the grounds as laid down in Order 47 Rule 1 of CPC are
- 

not satisfied because there is no error apparent on the face of the record. This Tribunal was pleased to consider the clarification dated 14.2.2012 received under CE SC Pune letter dated 29.2.2012 as the same was specifically raised in paragraph 8 of the reply statement filed by the respondents on 28.5.2012. Annexure A1 RRs have not been repealed, overruled, amended or modified so far and they govern the field even now. No new recruitment rule has been issued in respect of these respondents in this review application. The legality of seniority list was not in question in OA No. 109/12. The apprehension of the review applicants of loss of seniority and curtailment of chances for promotion to the skilled post in the event of implementation of Annexure RA/4 is not at all a justifiable reason for entertaining a review application. The fact that the letter dated 14.2.2012 was discussed in Annexure RA/4 order and was not appreciated by this Tribunal is not a reason for maintaining a review application. The respondents have no case that the Annexure A1 RRs stand superseded by Annexure RA/6 RRs.

4. We have heard the learned counsel for the parties and perused the records.

5. The official respondents in the OA No. 109 of 2012 had filed RA No. 10 of 2013 in the same OA on the ground that this Tribunal did not consider Annexure A13 order in its correct perspective. Further, it was submitted that the letters dated 29.2.2012 and 14.2.2012 were produced by them along with their additional reply statement which however has not come on record when the matter was finally heard on 16.11.2012 due to defects noted by the




Registry. The finding of the non-production of the letters is due to an error which calls for review of the order. The non-consideration of the relevant documents were brought to the notice of this Tribunal and is an error apparent on the face of the record. However, the review applicants in RA No. 10 of 2013 in OA No. 109 of 2012 withdraw the RA and the RA was closed as withdrawn vide order dated 23.7.2013.

6. The grounds specified for review in Order 47 Rule 1 of CPC, 1908 are i) a discovery of new and important matter of evidence which after exercise of due diligence was not within the applicant's knowledge or could not be produced by him at the time when the order was passed, ii) mistake or error apparent on the face of record and iii) any other sufficient reason. A review by no means is an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error. This Tribunal is entitled to review its own order only on the grounds enumerated in Order 47 Rule 1 of CPC, 1908.

7. The apprehension on the part of the review applicants are that they would lose their seniority in the cadre of Mate (SS) and their chances for promotion would be curtailed are not good enough grounds for review of the order of this Tribunal in OA No. 109 of 2012. In fact the applicants have no locus standi in as much as the legality of the seniority list was not in question in OA No. 109 of 2012.

8. Annexure RA/6 dated 11.11.2010, SRO-53 does not appear to have



annulled or repealed the Military Engineering Service Industrial Group-B Posts Rules, 2004. Annexure R2 relied upon by the review applicants for merger and re-designation of common categories of multi tasking staff is only a draft seeking comments and there is no contention that the same has been finalized.

9. This Tribunal had relied on paragraph 8 of the reply statement filed by the respondents in OA No. 109 of 2012 for the discussion of the documents which were not produced at the time of hearing. In short the review applicants have not made out a case for reviewing the order of this Tribunal on the grounds enumerated in Order 47 Rule 1 of the Code of Civil Procedure, 1908 under Section 22(3)(f) of the Administrative Tribunals Act, 1985.

10. In the result the Review Application fails and it is dismissed. No costs.


(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER


(DR. K.B.S. RAJAN)
JUDICIAL MEMBER

"SA"

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

R.A. 10 OF 2013 IN O.A. NO. 109 OF 2012

Tuesday, this the 23rd day of July, 2013

CORAM:

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

HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

1. The Chief Engineer (Naval Works),
Military Engineer Services,
Kataribagh, Naval Base (P.O),
Kochi – 682 004.
2. The Commander Works Engineer (Naval Works),
Military Engineer Services, Kataribagh,
Naval Base (P.O), Kochi – 682 004.
3. The Chief Engineer,
Head Quarters, Southern Command,
Engineers' Branch, Pune – 411 001.
4. Engineer-in-Chief,
Engineer-in-Chief's Branch,
Army Headquarters, DHQ (P.O),
New Delhi – 110 001.
5. Union of India represented by its
Secretary, Ministry of Defence,
Central Secretariat, New Delhi – 110 001.
6. Garrison Engineer (Independent) Maintenance,
Military Engineer Service, Naval Academy,
Ezhimala – 670 310.
7. Assistant Garrison Engineer (Independent)
Research & Development, Military Engineer Services,
Thrikkakkara Post, Kakkanadu,
Kochi – 682 021. ... Review applicants

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

versus

1. K. Vijayan, S/o. Gopalan Nambiar,
MES No. 109893, Chowkidar,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
2. K.G. Rajan, S/o. K.K. Gopalan,
MES No. 109882, Safaiwala,

Office of the Garrison Engineer (Electrical Mechanical),
Naval Works, Naval Base (P.O),
Kataribagh, Kochi - 682 004.

3. K. Madanan, S/o. N. Krishnan,
MES No. 109840, Safaiwala,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi - 682 004.
4. K.A. Rajappan, S/o. Ayer,
MES No. 109946, Chowkidar,
O/o. The Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi - 682 004.
5. N.C. Subramanian, S/o. Chanjan,
MES No. 109861, Chowkidar,
Office of the Garrison Engineer (Naval Works),
North Kochi, Kataribagh, Naval Base (P.O),
Kochi - 682 004.
6. Ajeesh P. John, S/o. P.K. Johnny,
MES No. 138274, Chowkidar,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi - 682 004.
7. K. Syamala, D/o. Damodaran,
MES No. 138200, Safaiwala,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi - 682 004.
8. C.A. Sebastian, S/o. C.P. Antony,
MES No. 109839, Safaiwala,
Office of the Garrison Engineer (Naval Works),
North Kochi, Kataribagh, Naval Base (P.O),
Kochi - 682 004.
9. V. Sarasamma, D/o. Raman,
MES No. 138214, Safaiwala,
Office of the Garrison Engineer (Naval Works),
North Kochi, Kataribagh, Naval Base (P.O),
Kochi - 682 004.
10. K. Bhaskaran, S/o. V. Kunhambu,
MES No. 187937, Chowkidar,
Office of the Garrison Engineer (Independent)
Maintenance, Military Engineer Services,
Naval Academy, Ezhimala - 670 310.
11. P. Babu, S/o. Kunhiraman,
MES No. 608452, Chowkidar,
Office of the Garrison Engineer (Independent)
Maintenance, Military Engineer Services,
Naval Academy, Ezhimala - 670 310.

12. P.K. Chellamma, D/o. Kuttan,
MES No. 187085, Safaiwala,
Office of the Assistant Garrison Engineer (Independent)
Research Development, Military Engineer Services,
Thrikkakkara Post, Kakkanad, Kochi – 682 021.
13. M. Anil Kumar, S/o. Late K.K. Madhava Kurup,
MES No. 187932, Chowkidar,
Office of the Assistant Garrison Engineer (Independent)
Research Development, Military Engineer Services,
Thrikkakkara Post, Kakkanad, Kochi – 682 021.
14. K.M. Omana, W/o. Varghese George,
MES No. 187938, Safaiwala,
Office of the chief Engineer (Naval Works),
Military Engineer Service, Kataribagh,
Naval Base (P.O), Kochi – 682 004.
15. M. Chandran, S/o. Late Malingu Naik,
MES No. 605 156, Chowkidar,
Office of the Assistant Garrison Engineer (Independent),
Research Development, Military Engineer Services,
Thrikkakkara Post, Kakkanad, Kochi – 682 021 ... Respondents

(By Advocate Mr. P.K. Madhusoodhanan)

ORDER

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

The learned counsel for Review applicants seek permission to withdraw the RA. Permission is granted. Accordingly, RA is closed as withdrawn.

Dated, the 23rd July, 2013.


K GEORGE JOSEPH
ADMINISTRATIVE MEMBER


Dr.K.B.S.RAJAN
JUDICIAL MEMBER

VS


CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Contempt Petition No. 130 of 2013
in
Original Application No. 109 of 2012

Friday, this the 25th day of July, 2014

CORAM:

Hon'ble Mr. U. Sarathchandran, Judicial Member
Hon'ble Ms. Minnie Mathew, Administrative Member

1. K. Vijayan, S/o. Gopalan Nambiar, aged 49 years,
MES No. 109893, Chowkidar,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
 2. K.G. Rajan, S/o. K.K. Gopalan, aged 53 years,
MES No. 109882, Safaiwala,
Office of the Garrison Engineer (Electrical Mechanical),
Naval Works, Naval Base (P.O),
Kataribagh, Kochi – 682 004.
 3. K. Madanan, S/o. N. Krishnan, aged 53 years,
MES No. 109840, Safaiwala,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
 4. K.A. Rajappan, S/o. Ayyer, aged 53 years,
MES No. 109946, Chowkidar,
O/o. The Garrison Engineer (Naval Works),
North Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
 5. N.C. Subramanian, S/o. Chanjan, aged 53 years,
MES No. 109861, Chowkidar,
Office of the Garrison Engineer (Naval Works),
North Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
 6. Ajeesh P. John, S/o. P.K. Johnny, aged 33 years,
MES No. 138274, Chowkidar,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
- 

7. K. Syamala, D/o. Damodaran, aged 47 years,
MES No. 138200, Safaiwala,
Office of the Garrison Engineer (Naval Works),
South Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
 8. C.A. Sebastian, S/o. C.P. Antony, aged 59 years,
MES No. 109839, Safaiwala,
Office of the Garrison Engineer (Naval Works),
North Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
 9. V. Sarasamma, D/o. Raman, aged 50 years,
MES No. 138214, Safaiwala,
Office of the Garrison Engineer (Naval Works),
North Kochi, Kataribagh, Naval Base (P.O),
Kochi – 682 004.
 10. K. Bhaskaran, S/o. V. Kunhambu, aged 44 years,
MES No. 187937, Chowkidar,
Office of the Garrison Engineer (Independent)
Maintenance, Military Engineer Services,
Naval Academy, Ezhimala – 670 310.
 11. P. Babu, S/o. Kunhiraman, aged 43 years,
MES No. 608452, Chowkidar,
Office of the Garrison Engineer (Independent)
Maintenance, Military Engineer Services,
Naval Academy, Ezhimala – 670 310.
 12. P.K. Chellamma, D/o. Kuttan, aged 56 years,
MES No. 187085, Safaiwala,
Office of the Assistant Garrison Engineer (Independent)
Research Development, Military Engineer Services,
Thrikkakkara Post, Kakkanad, Kochi – 682 021.
 13. Smt. K.M. Omana, W/o. Varghese George, aged 52 years,
MES No. 187938, Safaiwala,
Office of the Chief Engineer (Naval Works),
Military Engineer Service, Kataribagh,
Naval Base (P.O), Kochi – 682 004.
- **Petitioners**

(By Advocate – Mr. P.K. Madhusoodhanan)

V e r s u s

1. Brig. Gurdayal Singh, (age and father's name not known to the petitioners), Chief Engineer (Naval Works),



Military Engineer Services,
Kataribagh, Naval Base (P.O), Kochi – 682 004.

2. Col. P.H. Sharma, (age and father's name not known to the petitioners), The Commander Works Engineer (Naval Works), Military Engineer Services, Kataribagh, Naval Base (P.O), Kochi – 682 004.
 3. Major General R.K. Mattu, (age and father's name not known to the petitioners), The Chief Engineer, Head Quarters, Southern Command, Engineers' Branch, Pune – 411 001.
 4. Lt. General J. Sikand, (age and father's name not known to the petitioners), Engineer-in-Chief, Engineer-in-Chief's Branch, Army Headquarters, DHQ (P.O), New Delhi – 110 001.
- Respondents

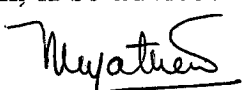
(By Advocate – Mr. Sunil Jacob Jose, SCGSC)

This Contempt Petition having been heard on 25.07.2014, the Tribunal on the same day delivered the following:

ORDER

By Hon'ble Mr. U. Sarathchandran, Judicial Member-

Learned counsel for the petitioners submitted that the matter can be closed for the time being in view of the substantial compliance of the order in respect of the petitioners except petitioners Nos. 8, 9, 11 & 12 and that the present Contempt Petition need not be proceeded further. Accordingly, the Contempt Petition is closed except in respect of the petitioners Nos. 8, 9, 11 & 12. Petitioners Nos. 8, 9, 11 & 12 are at liberty to revive the Contempt Petition, if so advised.


(MINNIE MATHEW)
ADMINISTRATIVE MEMBER
"SA"


(U. SARATHCHANDRAN)
JUDICIAL MEMBER