

FINAL ORDER
23-06-1988

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated this the Twenty third June, nineteen hundred and eighty eight.

ORIGINAL APPLICATION No.12/87

M. Vijayan, Electroplater HS II,
Naval Aircraft Yard, Cochin-682004. -- Applicant
Versus

1. The Flag Officer, Commanding-in-Chief, Headquarters Southern Naval Command, Cochin-682004.
2. The Captain Superintendent, Naval Aircraft Yard, Naval Base, Cochin-682004.
3. Sri K. Augustine, Electroplater H.S.I, Naval Aircraft Yard, Cochin-682004.
4. Shri V.P. Velappan, Electroplater HS II, Naval Aircraft Yard, Cochin-682004. -- Respondents

SHRI M. GIRIJAVALLABHAN -- Counsel for applicant
Mr. K. Karthikeya Panicker, ACGSC -- Counsel for respondents

CORAM

Hon'ble Shri C. Venkataraman - Admve. Member
&
Hon'ble Shri G. Sreedharan Nair - Judicial Member

(Order pronounced by Hon'ble Admve. Member
Shri C. Venkataraman.)

O R D E R

In this application the applicant who is working as Electroplater, Highly Skilled Grade II in the Naval Aircraft Yard, Naval Base, Cochin has prayed for a declaration that he was holding the post of Electroplater(Skilled) with effect from 20.11.1978 and for a further declaration that down gradation of his post of Semiskilled category is

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illegal. The applicant was promoted by a Circular No.120/86 dated 16-10-86 with effect from 17th October, 1986 but he has prayed that the said order be quashed with a direction to the 1st respondent to grant him that promotion with effect from 15.10.1984 on the basis that he was holding the post of Electroplater (Skilled) from 20.11.1978. Yet another prayer of his is that the promotion of respondents 3&4 as Electroplater HS II with effect from 11.3.86 superceding him is to be declared as illegal. The facts relating to the applicant are as follows:

2. The applicant was appointed after apprenticeship training, in the Base Repair Organisation, Cochin as Electrical fitter Grade II (Electroplater) from 20.11.1978. He was appointed from 1.1.79 as Electroplater Grade II in the same office in the same scale of pay of Rs.225-308. He passed the Trade Test for Electroplater Grade I on 23.6.1981. The 3rd and 4th respondents were appointed to the post of Electro-Depositor and Salt Bath Operator Grade II (ED & SBO) from 10.5.79 and 17.5.1979 respectively. At that time this post

was equivalent to Electroplater Grade II.

3. Based on the recommendations of what is known as Expert Classification Committee, government took a decision to categorise the various posts for Industrial workers under the Ministry of Defence under 5 pay scale as follows:

<u>Category</u>	<u>Scale of pay</u>
i) Unskilled (U/SK)	- Rs. 196-3-220-EB-3-232
ii) Semi-Skilled (ss)	- Rs. 210-4-226-EB-4-250-EB-5-290
iii) Skilled (SK)	- Rs. 260-6-290-EB-6-326-8-366-EB-8-390-10-400
iv) Highly Skilled (HSK)	Grade II - Rs. 330-8-370-10-400-EB-10-480
v) Highly Skilled (HSK)	Grade I -- Rs. 380-12-500-EB-15-560

As a result of the above, Electroplater Grade II was brought under the classification of Semiskilled with a pay scale of Rs.210-290 even though the post carried till then a pay scale of Rs.225-308 and the applicant was drawing pay in that scale. The applicant was allowed to continue to enjoy the pay scale of Rs.

225-308 as personal to him. The post of ED&SBO Gr.II which ~~are~~ also carried earlier a pay scale of Rs.225-308 was however, brought under the Skilled Category with the pay scale of Rs.260-400 on the basis of the recommendations of the ECC and the decision of the government thereon. Thus the applicant is ~~agreed~~ ^{agreed} that

even though he and respondents 3 & 4 were in identical scales of pay, with he being the seniormost of the three was denied the pay scale for a Skilled post whereas the other two were given that scale.

Government even while passing orders on the ECC recommendations had recognised that there were anomalies in regard to the allocations of pay scales for number of posts and had remitted such anomalies to a committee known as the Anomaly Committee. The post of Electroplater Grade II figures in that reference.

4. Shri Girijavallabhan, the learned counsel for the applicant stated before us that the Anomaly Committee went into various anomalies which were brought to their notice and made various recommendations, one of which was that the Electroplater Trade should come under the common category of Skilled and that where there is a common category for a Trade, the distribution of posts in that category ^{in various grades} should be according to the following percentage namely,

- a) Highly Skilled Grade I (Rs. 380-560) 15%
- b) Highly Skilled Grade II (Rs. 330-480) 20%
- c) Skilled grade (Rs. 260-400) 65%

The learned counsel thus pointed out that the Electroplater Trade did not have a Semiskilled category

at all. The minimum level itself was in the Skilled Grade of Rs.260-400. As the applicant was holding the post of Electroplater Grade II, his pay scale should have been in the grade of 260-400 and not 210-290 as recommended and accepted ^{even} by the ECC or ~~Rs~~ 225-308 given as personal to him. Since he was holding the post of Electroplater Grade II from 20.11.1978 he should be fitted in that scale from that date. However, Government had passed orders in this regard on the basis of the recommendations of the Anomaly Committee on 15.10.1984 accepting the recommendations for allocation of the posts in the Electroplater Trade into three categories namely, Skilled, Highly Skilled Gr.II and Highly Skilled Gr.I in the prescribed percentage but gave effect to the decision only from 15.10.1984. It was thus that the applicant happened to be brought to the scale of Rs.260-400 from 15.10.1984. On the contrary his colleagues who had the benefit of the recommendations of the ECC being in their favour, were fitted in the scale of Rs.260-400 from 16-10-1981 which is the date

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on which decision based on ECC were given effect to. Shri Girijavallabhan pointed out that respondents 3&4 were junior to the applicant having started drawing pay in the scale of Rs. 225-308 after the applicant. Yet they started drawing pay in the scale of Rs.260-400 from 16-10-81 as against the applicant getting the scale only from 15-10-84. It was due to the action of government in giving effect to the decision of the Anomaly Committee from 15.10.84, that a senior of the applicant was brought below the respondents 3 & 4. As a consequence, these juniors were promoted ahead of the applicant to the Grade of Electroplater HS II. Government themselves having accepted the fitment of Electroplater Gr.II in the Semiskilled as an anomaly, ^{and} when after a proper consideration, it was found necessary to remove such anomaly by giving a higher scale to that post, the decision should have taken effect from the date on which a lower scale was given for the said post erroneously. Giving effect to government's decision on the basis of the Anomaly Committee report from 15.10.84 is arbitrary,

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as the anomaly was in existence atleast from
16-10-1981. The ~~resulting~~ benefit to juniors
while denying it to the applicant who is senior
is also discriminatory. Accordingly he prayed
that the application be allowed.

5. The respondents pointed out that even
though Electroplater Gr.II was reclassified as
Semiskilled Category on the basis of the recommenda-
tions of the ECC and given a pay scale of Rs.210-290,
the applicant ^{however} was not put to any monetary loss
because he was allowed a pay scale of Rs.225-308.
He was considered for promotion as Electroplater
(Skilled) with effect from 2.1.1984. Though he
was promoted only on that date, he was still given
the Skilled Grade from 18.3.81 taking into account
his past service as Electroplater Gr.II in the
scale of pay Rs.225-308 prior to his down-gradation
as Semiskilled category. As the applicant's post
was actually down-graded on the basis of the Expert
Classification Committee's recommendations, till
the anomaly was redressed by issue of government's
orders on 15.10.1984, he was holding a lower post
as compared to respondents 3&4. As respondents 3&4

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were holding Electroplater Skilled category post from 10.5.79 and 17.5.79 respectively, they were placed above the applicant and consequently they got promoted to Highly Skilled Gr.II before him. Accordingly he prayed that the application be dismissed.

6. It is noticed from the introduction to the Anomaly Committee report that the task of that Committee headed by Justice K.C.Puri was to fit ^{under the Defence Ministry} the Industrial Workers/in appropriate pay scales after applying the technique of job evaluation. The ECC submitted its report to government in January, 1979 and it had recommended 9 pay scales for the Industrial workers in Defence establishments. Govt. decided to compress the 9 pay scales into 5 after adopting mid-point of point-ranges arrived at for various skills by the ECC. The decision was approved by the Cabinet in October, 1981 and orders were issued on 16th October, 1981 to implement the revised 5 pay scales for Industrial workers under the Ministry of Defence. As certain anomalies came to notice while implementing the revised pay scales, a new committee namely Anomaly Committee was set up which had to

go into such questions as:

- (i) Anomalies resulting from the job evaluation ie., missing the higher grade by one point;
- (ii) Allotment of the lower pay scales inspite of higher rating on account of marginal adjustment to avoid vacuum in the grade structure;
- (iii) Persons performing indentical job duties, shouldering same responsibilities and having same entry qualifications, getting placed in different pay scales.

7. We noticed from Annexure I to Ebt.R.1A filed with the Counter Affidavit that the revised pay scales for different posts of Electroplater were fixed as follows on the basis of the Anomaly Committee Report:

Electroplater Grade I 'B'	- Rs.260-400	Rs.260-400
Electroplater GDE-II 'C'	- Rs.225-308	Rs.210-290
Salt Bath Opr & Electro		
Depositor Gr.I	- Rs.260-400	Rs.260-400
Salt Bath Opr & Electro		
Depositor Gr.II	- Rs.225-308	Rs.260-400
Salt Bath Opr & Electro		
Depositor Gde-III	- Rs.210-290	Rs.210-290

It was on the basis of the above that respondents 3&4 who were holding the post of ED&SBO were given the scale of Rs.260-400 from 16.1.1981 whereas the applicant who was holding the post of Electroplater Gr.II was given a pay scale of Rs.210-290 (225-308 given as personal to the applicant). The allocation of pay scale for the Electroplater Trade was one of the matters referred to the Anomaly Committee which in turn after proper consideration had made a recommendation that these posts in the trade should

come under a common category with distribution of posts in three different scales according to a percentage. The Committee's recommendation in this regard were:

" Having regard to the technological changes and requirements of the situation due to introduction of more and more sophisticated machines and equipment, the Committee would consider it desirable to have a bench mark percentage for the skilled categories. This would also help in making the cadre structure viable besides providing incentive to the workers to develop their skills. The Committee therefore, recommends the following bench mark percentage for adoption to fill in the gaps in the operation of skilled grades or to provide grades commensurate with higher levels of skills required for common categories in certain establishments:-

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| (a) Highly Skilled grade I
(Rs. 380-560) | 15% |
| (b) Highly Skilled Grade II
(Rs. 330-480) | 20% |
| (c) Skilled
(Rs. 260-400) | 65% |

Electroplater is listed as one of the 21 common category jobs. On the basis of the recommendations of the Anomaly Committee made in May, 1984, government took a decision and announced it on 15.10.84 thereby Electroplater Trade had only three categories namely Skilled, H.S.Gr.II and HS Gr.I. In other words no post of the Electro Plater Trade was Semiskilled or Unskilled. Thus the post which the applicant was

holding as Electroplater Gr.II automatically came under the category of Skilled. Yet the government order took effect only from 15.10.1984, and it was because of this the applicant had been fitted into the Skilled Category from 15.10.84.

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As two respondents had, however, tried to give him the benefit of seniority by taking into account his past service as Electroplater Gr.II and giving him seniority from 2.1.1984. We are, however, not able to appreciate how when the applicant was drawing pay in the scale of Rs.225-308 from 20-11-73 and the respondents 3&4 were also drawing pay in that scale only from 10-5-79 and 17-5-79 respectively, the former could be placed junior to the said two respondents. If there had not been any anomaly in the implementation of the ECC recommendations, the applicant would have been placed in an identical post as the respondents 3&4. ~~We are of the view that~~ the anomaly brought about by the decision to down-grade the post of Electroplater Gr.II on the basis of the recommendations of the ECC had been rectified by the acceptance of the recommendations of the Anomaly Committee. The President's sanction on 15th October, 1984 had merely restored the status of the Electroplater

Grade II to what it ought to have been even on the date of implementation of the ECC recommendations. Giving effect to the President's sanction in this regard only from 15.10.84 ~~it~~ resulted in arbitrarily continuing the anomaly during the intervening period from 16.10.81 to 14.10.84. ~~and~~ that it resulted in the applicant who had entered the grade 225-308 ahead of the respondents 3&4 ranking junior to them, which we considered as wrong. Therefore, the applicant also had a right to be fitted in the scale of pay of Rs.260-400 from 16-10-1981. This view is in accordance with the judgment delivered by this Tribunal in T.A.829/86 on 8th September, '86 earlier referred to by the learned counsel for the applicant. We noticed, however, that he had been given for the purpose of seniority, the position in the Skilled Category of Electroplater from 18.3.81. This is stated to be on the basis of reckoning the applicant's past service as Electroplater Gr.II in the scale 225-308. We noticed that the applicant was brought to that scale even according to the Counter Affidavit from 20-10-1978 while he was

Electroplater and from 1.1.1979 when he was appointed as Electroplater Gr.II. That date is much earlier than the date of appointment of respondents 3&4 to the scale of Rs.225-308. Therefore, respondents 3&4 cannot be ranked as senior to the applicant.

8. In the light of the above we direct that the applicant should be allowed the benefit of the scale of pay of Rs.260-400 from the date on which the ECC recommendations were implemented namely 16-10-1981. Further, as respondents 3&4 were appointed to the scale of Rs.225-308 long after the applicant, the applicant is entitled to rank senior to the said respondents. Accordingly the Circular No.120/86 dated 16-10-1986 (Exbt.A9) promoting the applicant as temporary Electroplater HS II with effect from 17-10-86 is set aside in so far as it gives effect to the promotion to him only from that date. As consequence of our direction that the applicant should rank senior to respondents 3&4, ^a the promotion to HS II Grade of the applicant should take effect from the date on which ^{his} induction

immediate junior-whether respondent 3 or 4 -
was promoted to that grade.

9. The application is allowed as above.

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~~23-6-88~~

(G.Sreedharan Nair)
Judicial Member
23-6-1988

~~Chanketanay~~
~~23~~ 16/88

(C.Venkataraman)
Administrative Member
23-6-1988

Index: Yes/NO

Sign