

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

ORIGINAL APPLICATION NO. 2 of 2012

Friday this the 12th day of June, 2015

CORAM

**Hon'ble Mr. Justice N.K.Balakrishnan, Judicial Member
Hon'ble Mr. R.Ramanujam, Administrative Member**

Sreedharan N
High Skilled Turner/Machinist (H.S) II
Naval Ship Repair Yard (NSRY)
Southern Naval Command, Naval Base
Willingdon Island, Cochin-3.

...Applicant

(By Advocate Mr. S. Sujin)

Versus

1. The Chief Staff Officer (Personnel & Admn)
Southern Naval Command, Naval Base
Willingdon Island, Cochin.3.
2. The Commandor Superintendent,
Naval Ship Repair Yard, Southern Naval Command
Naval Base, Willingdon Island, Cochin.3.
3. The Flag Officer Commanding in Chief
Southern Naval Command, Naval Base
Wellingdon Island, Cochin.3.
4. Union of India, represented by Secretary to Government,
Ministry of Defence, New Delhi.
5. P.A. Manoharan, Machinist (HS.I) Naval Ship
Repair Yard, Naval Base, Southern Naval Command
Kochi.4.
6. Santhsoh P.Babu, Machinist (HS.I) Naval Ship
Repair Yard, Naval Base, Southern Naval Command
Kochi.4.Respondents

(By Advocate Mr. N. Anil Kumar, SPCGC)

This application having been finally heard on 12.6.2015, the Tribunal on 12.6.2015 delivered the following:

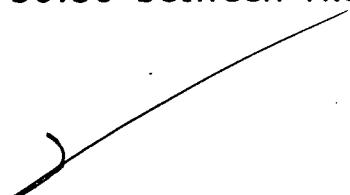
O R D E R

Per: Justice N.K.Balakrishnan, Judicial Member

This OA is filed to quash Annexure. A.3 and to direct the respondents 1 to 3 to promote the applicant as Highly Skilled Grade I.

2. The case of the applicant can be stated in brief as follows.

3. The applicant started his career as Turner (Semi Skilled) in 1992. He got promotion as Turner (Highly Skilled) and is continuing as such. Since it was found by the Government that as there are various categories as Artisans consisting of 18 Trades it should be restructured. The 6th Central Pay Commission recommended that all these 18 trades should be in four tier structure consisting of Skilled Artisan (SK) Highly Skilled Grade II (HS-II), Highly Skilled Grade I (HS-I)and Master Craftsman. That was introduced with effect from 1.1.2006. Among the 4 trades 45% of the posts were to be in Skilled Grade and the remaining 55 percent was given to Highly Skilled Grade. That 55% was again divided in ratio of 50:50 between H.S.II and HS.I. The



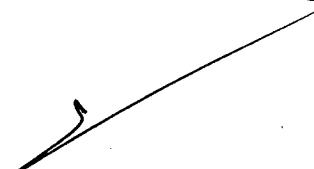
order dated 14.6.2010 was issued by the Ministry of Defence introducing revision of pay scale for Master Craftsman. Grade structure was modified into four and scale of pay in the revised scale was also introduced. Even before restructuring was ordered by order dated 9.6.2005 the department had taken a decision to reduce 10% of the Artisan belonging to all the trades and therefore out of 18 trades the total 10% posts will have to be reduced. But when restructuring was implemented reducing the 10% posts in the entire Artisan Trade, the 10% reduction was introduced only in Mechanist. There were 98 sanctioned posts in the trade of Machinists of which 14 posts were reduced as per Government order dated 9.6.2005. The representation was given by the applicant for promotion to the post of HS Grade I. It was further alleged that Shri P.A.Manohran and Shri Santhosh P. Babu (Respondents 5&6) who were juniors to the applicant were given promotion to the post of HS.Grade I. Thus according to the applicant he lost all hope of getting promotion as HS.I. There is no reservation in the promotion. The restructuring process was only for giving one more benefit to the employees. In doing the restructuring the respondents cannot bye pass the applicant's seniority. Thus the applicant prays for the reliefs as mentioned earlier.

4. As per Government of India directives to all the

2

departments, 10% of the total vacancies had to be surrendered and while formulating the the annual recruitment plan of civilian vacancies, the Navy also had to surrender its share of 10% vacancies. Accordingly the post that can be spared for surrendering on functional basis were identified and redundant posts including those posts which were lying vacant in 2004-05 were also considered for abolition and recommended for surrendering the same in compliance of the Government order. 14 vacancies in the trades of Driller, Turner, Tool Grinder, Miller, Grinder, Tool Maker, Jig Fitter, Saw Grinder, Precision Grinder, Tool Grinder/Hardener, Engraver and Machinist were surrendered. All these trades were later merged and designated as Machinist [vide Note 1 of Enclosure 1 of Integrated Headquarters, Ministry of Defence (Navy) letter dated 4.8.2006 – Annexure.R.1]

5. When placement is to be treated as promotion all norms required for promotions have to be strictly adhered to and vacancy reserved for Scheduled Castes and Scheduled Tribes candidates as per Government Policy have to be filled and in the process the respondents 5&6 being senior most in the Scheduled caste category had to be promoted. Candidates senior to the applicant in general category were promoted to the extent, vacancies were available in the General category. Since vacancies were not available in general category, the applicant

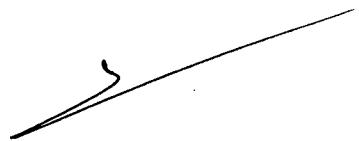


had to be left out. Reduction of 10% posts was not made from the Mechanist Trade alone. The contention raised by the applicant that while implementing the restructuring process, seniority is the only criteria is unacceptable.

6. The points for consideration are whether the applicant is entitled to be promoted as HS.II and whether Annexure.A.3 is liable to be quashed?

7. We have gone through the records/annexures produced by the parties and also heard the learned counsel appearing for both sides.

8. Respondents have pointed out the unit wise and trade wise posts under the Southern Naval Command which were surrendered pursuant to the government directives. The total number of posts thus surrendered was 14. The posts so surrendered were from 8 trades. It is vehemently argued by the learned counsel for the applicant that reduction of 10% posts was only in the Machinist trade and there was no similar reduction of posts from among other trades. From the trade Machinist, only one post was surrendered. Total number of posts reduced from 8 trades was 14. Applicant could not point out any rule, regulation or scheme which prohibits the reduction of posts or surrendering of posts from any particular trade exceeding 10%. Even going by the allegation made by the applicant there was only reduction

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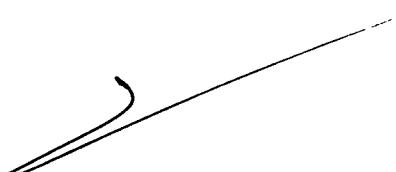
of 10% posts from the trade Mechanist. It is submitted by the learned counsel appearing for the respondents Shri. N.Anilkumar, (Senior Panel Central Govt. Counsel) that it is nowhere stated that from each of the posts there should be 10% reduction. What is discernible from the order is that there should be a total 10% reduction. That was evidently introduced by the government as a measure to curtail or minimize expenditure. Courts or Tribunals cannot sit in judgment over such policy decisions made by the government.

9. The other main ground that has been urged by the applicant is that reservation is only in the entry cadre and there is no reservation in the promotion category. The contention projected by the applicant is that though he is senior, respondents 5&6 who were juniors were granted promotion, ignoring the seniority of the applicant. It is argued on behalf of the applicant that there is no reservation for promotion and that the restructuring process was only for giving more benefit to the employee and in doing so respondents cannot bye-pass the seniority of the applicant and grant promotion to the juniors defeating avenues of the senior. The reductions of posts on rationalization of trade structure in the Machinist Trade is not a ground available to the applicant since he could not point out any violation of any rule or scheme formulated for that purpose. It is

not disputed that there was restructuring. 14 posts, as shown in Annexure R.1 - Note 1 were, ordered to be merged and redesignated as Machinist. Since there was only total 10% reduction of posts the contention that there was reduction in one post and so it would affect the promotional avenues of the applicant is found to be devoid of any merit.

10. The other contention raised by the applicant is that two of his juniors were granted promotion ignoring the seniority. But admittedly those respondents 5&6 were granted promotion in the reservation category, the contention that reservation is available only at the entry level and not for promotion is also without any merit. It was held by this Tribunal in OA 743/2011 and 2 other connected cases that principles of reservation will apply in the restructuring of Artisan cadre as well. The restructuring which is the subject matter of these cases itself was the bone of contention in OA 743/2011 cited supra. It was held by this Tribunal:

"As per clarifications dated 1.12.2010 and 3.6.2011 te placement of existing Highly Skilled Grade II (Grade Pay of Rs. 2400/- to Highly Skilled Grade I (Grade Pay of Rs. 2800/-) with effect from 1.1.2006 will be treated as promotion for the purpose of ACP. In the instant cases, there is a process of selection or consideration of comparative merit or suitability for granting placement in higher grade. Therefore, the placement is treated as promotion. It is not an up-gradation simplicitor. In restructuring cadres, there is creation of additional posts by way of introduction of the cadre of Skilled Grade-1."

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It was then held

"For the above reasons, we have no hesitation in holding that the principles of reservation will apply in the restructuring of Artisan cadres carried out as per instructions in the letter dated 14.6.2010.

As such the second contention urged by the applicant must also fall to the ground.

11. In view of what is stated above, we find there is no merit in this O.A. Accordingly O.A is dismissed without any order as to costs.



(R.Ramanujam)
Administrative Member

kspps


(N.K.Balakrishnan)
Judicial Member