

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 135/91
~~XXXXXXXX~~

188

DATE OF DECISION 26.6.1992

Mr. N. Vasanthakumaran Applicant (s)

Mr. K. Balakrishnan Advocate for the Applicant (s)

Versus

Engineer-in-Chief, Army H.Q. Respondent (s)
and 3 others

Mr. K. Prabhakaran, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N.V. Krishnan - Vice Chairman
&

The Hon'ble Mr. A.V. Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *ye*
2. To be referred to the Reporter or not? *~*
3. Whether their Lordships wish to see the fair copy of the Judgement? *~*
4. To be circulated to all Benches of the Tribunal? *~*

JUDGEMENT

(Hon'ble Shri A.V. Haridasan, Judicial Member)

In this application, the applicant Mr N Vasanthakumaran, Engine Fitter (Skilled) working in the office of the Assistant Garrison Engineer, E/M, Military Engineering Service, Naval Base, Cochin has prayed that the decision contained in the letter dated 1.6.1990 of the E-in-C Branch, Army Headquarters appended to the communication dated 30.6.1990 of the Chief Engineer, Pune which was circulated by the A.E. on 7.8.1990 (Annexure 7) that the exemption contained in the Headquarters letter No.90270/89/TGS/EIC(3) dt.5.1.1987 from appearing in the trade test for those who had passed the trade test for Charge Mechanic/Sr Mechanic HS I earlier would be restricted to incumbents holding HS II

appointment at
the time of issue of that letter and the order of the Assistant
Garrison Engineer, Naval Base, Cochin dated 7.8.1990 stating
that the applicant has to qualify in the trade test for Veh.
Mechanic H.S.II for promotion to that post and thereafter to the
post of
Senior Mechanic H.S.I (Annexure-8) may be quashed, and that it may
be declared that the applicant is qualified to be considered for
promotion as Vehicle Mechanic H.S.II and Senior Mechanic H.S.I
in his turn according to his seniority without undergoing any
further trade test. Shorn of details the facts of the case can
be briefly stated as follows.

2. The applicant who joined the Military Engineering
Service as Engine Driver in 1974 under the Eastern Command was
transferred to Avadi in the Southern Command in the year 1982.
Engine Fitter is a
The post of feeder category for promotion to the post of Charge
Mechanic. He passed the trade test for promotion to the post of
Charge Mechanic/Senior Mechanic H.S.I in the year 1986. There-
after he was transferred to Cochin in 1989. While so during the
year 1986 a Three Grade Structure was introduced in the establish-
ment for various technical posts including that of Charge Mechanic/
Charge Electrician etc. which was implemented with effect from
1984. The post of Fitter Engine was redesignated as Mechanic
Petrol and Diesel Engine (MPDE for short) and the post of Charge
Mechanic was redesignated as Senior Mechanic H.S.I. According
(Annexure 9) - Engine
to recruitment rules of the year 1971, Fitter was a feeder cate-
gory to the post of Charge Mechanic. But by the introduction
of Three Grade Structure, an intermediary post of Vehicle
Mechanic H.S.II was introduced. The skilled artisans like

and was pro-
moted in 1983
as Engine
Fitter

Fitter, Moulder etc. had to be first promoted as H.S.II and then only as Senior Mechanic H.S.I. But the recruitment rules were not amended specifying the method of recruitment to the intermediary post of ~~Vehicle~~ Mechanic. On 5.1.1987 a circular (Annexure 10) was issued from the Army Headquarters ⁱⁿ wherein it was clarified that as the syllabus for the trade test for the post of Charge Mechanic/Charge Electrician/Charge Mechanic(Ref.) has not been changed as far as the highly skilled grade-I posts under the Three Grade Structure scheme are concerned, the skilled workers who had already qualified ⁱⁿ the trade test for the post of Charge Mechanic/Charge Electrician/Charge Mechanic(Ref.) would not be required to pass the test again for the promotion from Highly Skilled Grade-II posts to Highly Skilled Grade-I posts of Charge Mechanic/Charge Electrician/Charge Mechanic(REFG) and that it should however, be ensured that promotion orders to H.S. Grade-I posts would be effected provided the employees had already been placed in H.S. Grade-II. When a panel of persons eligible for trade test to H.S.II ~~Vehicle~~ Mechanic was published, the applicant made a representation that he may be considered for promotion. To this representation, the applicant received Annexure-2 reply wherein it was informed that individuals who had qualified in the trade test of Charge Mechanic, Charge Electrician and Charge Mechanic(Ref.) cannot be promoted directly to the post of Highly Skilled Grade-I. ^{that} and ⁱⁿ those who are holding H.S.II post would be promoted to Skilled Grade H.S.I. But as the Chief Engineer, Pune took a stand that for being promoted to the post of ~~Vehicle~~ ^{Vehicle} Mechanic H.S.II, the applicant and others who had passed the trade test for Charge Mechanic had to pass another trade test for H.S.II,

the second respondent wrote to the Chief Engineer, Pune for clarification on this point. In the meanwhile, trade test for H.S.II was held on 9.1.1990 and when persons who passed the trade test were going to be promoted, the applicant submitted a representation on 16.8.1990 to the second respondent indicating that as he had already passed the trade test for Charge Mechanic, his name may be included in the list of qualified and eligible candidates for promotion. It is in this context that Annexure-7 communication was received wherein it was clarified that those who had passed the Charge Mechanic Examination had to pass the trade test for H.S.II for promotion to that post. Since the recruitment rules for the post of Charge Mechanic issued on 18.6.1971, SRO-211 has not been amended, the applicant claims that he is entitled to be promoted to the post of Charge Mechanic/Senior Mechanic H.S.I without being promoted as

~~Vehicle~~ Mechanic H.S.II. Further, as recruitment rules do not provide for any test for promotion

~~not been provided~~ to the post of Electrical Mechanic H.S.II

~~and as the applicant has~~ already passed the trade test for the higher

post of Charge Mechanic even without any further test, he is

entitled to be promoted to the ~~Electrical~~ ^{post of Vehicle} Mechanic H.S.II and

to the next higher grade of Senior Mechanic H.S.I in his turn

and on the basis of his seniority without being subjected to

any further trade test.

3. The respondents in the reply statement admit that the

post of Engine Fitter which has been redesignated as MPDE is

a feeder post to the promotion to the cadre of Charge Mechanic

as per the recruitment rules of 1971, that the post of Charge

Mechanic has been redesignated as Senior Mechanic H.S.I and that for the intermediary post of ~~(Vehicle)~~ Mechanic H.S.II, no recruitment rules have been framed. They also admit that the applicant has passed the trade test for the post of Charge Mechanic in the year 1986. The respondents also admit that the applicant is not obliged to pass the trade test for Senior Mechanic for H.S.I ~~as he had already passed the trade test for the post of Charge Mechanic.~~ But they contend that as the exemption contained in the letter No.90270/88/EIC(3) dated 5.1.1987 at Annexure-10 applied only to those skilled workers who had already been placed in H.S.II and since the applicant had passed the trade test for Charge Mechanic only in the year 1986 and had not been placed in the post of ~~(Vehicle)~~ Mechanic H.S.II for getting promotion to the post of ~~(Vehicle)~~ Mechanic H.S.II ^{he} is obliged to pass the trade test for ~~(Vehicle)~~ Mechanic H.S.II though for the further promotion to the post of Senior Mechanic H.S.I, he need not pass any further trade test.

4. In the rejoinder filed by the applicant, he has pointed out that the recruitment rules of the year 1971 is still in force, that this position has been upheld by this Tribunal in OA-106/87 as also in OA-1237/90 and that therefore the stand of the respondents that the applicant has to pass the trade test for ~~(Vehicle)~~ Mechanic H.S.II ^{be} to/~~placed~~ in that cadre is unreasonable and unjustified.

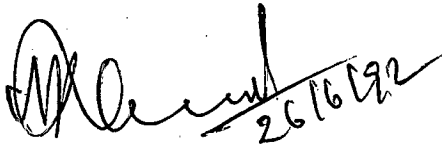
5. We have heard the arguments of the learned counsel on either side and have carefully perused the pleadings and the documents on record.

6. That the applicant has passed the trade test for promotion to the post of Charge Mechanic which has been redesignated as Senior Mechanic H.S.I in the year 1987 is admitted. It is evident from the circular of the Army Headquarters dated 5.1.1987 at Annexure-10 that there is no change in the syllabus for the trade test to the post of Senior Mechanic H.S.I from that for the post of Charge Mechanic and that ~~the~~ ^{promotion} the skilled workers who had already qualified in the trade test for the post of Charge Mechanic/Charge Electrician/Charge Mechanic(REFG), would not be required to pass the trade test again for their promotion from H.S.II to H.S.I posts. If skilled workers who had passed the trade test for Charge Mechanic which has been redesignated as Senior Mechanic H.S.I need not appear for a further trade test for promotion to the post of Senior Mechanic H.S.I despite the introduction of the Three Grade Structure and creation of an intermediary post of Vehicle Mechanic H.S.II, it is absolutely unjust and unreasonable to say that before promotion to the lower post of Vehicle Mechanic H.S.II, they have to pass a trade test. In OAK-106/87 and in OA-1237/87, this Bench of the Tribunal had held that the recruitment rules of 1987 is still operative and that those who have passed the trade test of Charge Mechanic/Charge Electrician need not again pass any trade test for promotion to the post of Senior Mechanic/Senior Electrician H.S.I. Therefore, we are of the view that the decision of the respondents contend in Annexure-7 and Annexure-8 that

the applicant for promotion to the post of Vehicle Mechanic H.S.II has to pass the trade test though he has passed the trade test for the post of Senior Mechanic H.S.I is unreasonable and unsustainable.

6. In the conspectus of facts and circumstances, we allow the application, quash the impugned orders at Annexure-7 and 8 and declare that the applicant is qualified to be considered for promotion without any further trade test to the post of Vehicle Mechanic H.S.II and then to the post of Senior Mechanic H.S.I as and when his turn comes according to his seniority.

7. There is no order as to costs.



(AV HARIDASAN)
JUDICIAL MEMBER



(NV KRISHNAN)
VICE CHAIRMAN

trs

26.6.92