

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.220/97

Friday, this the 28th day of April, 2000.

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. C.M. George, S/o Late C.K. Manuel,
Now Senior Technical Assistant,
Naval Physical & Oceanographic Laboratory,
Cochin-21.
Residing at Chakkalayil House,
36/2082, Carrier Station Road,
Cochin-16.
2. A. Mathew, S/o Late Antony,
Instrument Mechanic(Assistant Foreman)(Retd),
Naval Physical & Oceanographic Laboratory,
Cochin-21.
Residing at Naissery House,
Elookkara, Muppathadam P.O.,
Aluva-1.
3. P. Mukundan, S/o Late Moopil Balakrishna Menon,
Now Senior Technical Assistant,
Naval Physical & Oceanographic Laboratory,
Cochin-21.
Residing at Supriya,
Near Hill Palace, P.O. Thiruvankulam,
Ernakulam.
4. K.G. Jacob, S/o K.C. Gorege,
New Senior Technical Assistant,
Naval Physical & Oceanographic Laboratory,
Cochin-21.
Residing at Kandathil Parambil House,
Cheroor P.O., Thrissur.

Applicants

By Advocate Mrs. Sumathi Dandapani.

Vs.

1. The Director,
Naval Physical & Oceanographic Laboratory,
B.M.C.(Post), Thrikkakkara,
Cochin-21.
2. The Director General,
Research & Development,
Research and Development Organisation,
Ministry of Defence,
Directorate of Personnel (B) Wing,
Sena Bhavan, DHQ (Post),
New Delhi.

3. The Scientific Advisor to Govt. of India,
Ministry of Defence,
Research Development,
New Delhi.
4. Union of India rep. by
the Secretary to the Govt. of India,
Ministry of Defence,
New Delhi.

Respondents

By Advocate Mr Govindh K. Bharathan, Sr. CGSC.

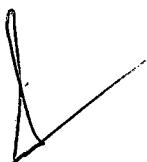
The application having been heard on 31.3.2000,
the Tribunal delivered the following on 28.4.2000.

O R D E R

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER

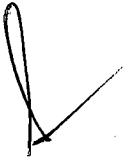
Applicants seek to quash A6 to A9 orders passed by the 2nd respondent and to direct the 2nd respondent to grant promotion to them as Precision Mechanic under the 1st respondent with effect from 1.7.1973, the date on which Ajaikumar, who is junior to them, was given promotion.

2. The first applicant joined in the year 1963 as Welder. He was promoted as Instrument Mechanic in October, 1967. The next avenue of promotion is as Precision Mechanic, but he was promoted as Chargeman Grade II in November, 1981 and became Chargeman Grade I in March, 1985. In September, 1991 he was promoted as Assistant Foreman. The second applicant became Instrument Mechanic on 1.8.1968, He was promoted as Chargeman II on 31.8.1982. He was again promoted as Chargeman I on 16.9.1985 and subsequently as Assistant Foreman on 16.9.1992. The third applicant joined as Radio Mechanic on 25.11.1968. He became Chargeman II on 31.8.92 and Chargeman I on 16.9.1985. He was further promoted as Assistant Foreman on 16.9.1992. The fourth applicant joined as Electrician in February, 1967. He became Radio Mechanic in the year 1969. He was further promoted as Chargeman II in September, 1986 and



as Chargeman I in March, 1987. On the basis of seniority, Precision Mechanics were eligible to be considered for the post of Chargeman II before 6th of December, 1979. After 6.12.1979, the post of Precision Mechanic, Instrument Mechanic, Radio Mechanic, Tool and Dye Makers were pooled together to the post of Chargeman II. Certain persons working in Aeronautical Development Establishment, Bangalore, filed O.A.600/91 before the Central Administrative Tribunal, Bangalore Bench. As per the said judgment the fact that the applicants therein were given promotion as Precision Mechanics from 31.12.1972 to 3.6.1980, was taken judicial notice. The impugned orders are passed in pursuance of the direction of this Bench of the Tribunal in O.A.476/95. There is no reason for the respondent in not effecting promotions even after 1975 Ajaikumar was promoted as Precision Mechanic on 1.7.1973 who was junior to the applicant.

3. Respondents contend that after issue of Statutory Rules and Orders 245/75, Instrument Mechanics/Radio Mechanics, etc. were not eligible for consideration for promotion to the grade of Precision Mechanics. Ajaikumar and 9 other employees were borne on the strength of another establishment, i.e., Naval Science and Technological Laboratory, Visakhapatnam. All these years the applicants had no complaint against the promotion as they were promoted depending upon the availability of vacancies and their eligibility. The decision of the Bangalore Bench in O.A.600/91 says that Precision Mechanics who were in the pay scale of Rs.425-700 prior to 28th January, 1992 are eligible for promotion the post of Chargeman Grade I and above as per Statutory Rules and Orders in force. If the applicants had been appointed as Precision



Mechanics, they would have been considered for promotion to the grade of Chargeman Grade I and above. The applicants were promoted depending upon the availability of vacancies. Precision Mechanics were not given promotion like Chargeman Grade II as their eligibility conditions were different. Applicants were not considered for promotion to the post of Chargeman Grade I for the reason that they were not Precision Mechanics. Promotion from Instrument Mechanic/Radio Mechanic to Precision Mechanic was not possible as these posts carried the same scale of pay.

4. In the rejoinder filed, it is stated that since the applicants have been denied promotion to the post of Precision Mechanics they are made to suffer supersession.

5. In the additional reply statement it is stated that for the purpose of promotion to Precision Mechanics, the rules are same as for Naval Physical & Oceanographic Laboratory, and Naval Science & Technological Laboratory, but both are different establishments having independent entities for the purpose of promotion, recruitment, etc. During the period prior to 28.1.1992 the applicants were never appointed/promoted as Precision Mechanics and hence they are not coming under the purview of the order of the Bangalore Bench in O.A.600/91.

6. A6 to A9 are the impugned orders turning down the request of the applicants.



7. Applicants seek to quash A6 to A9 orders passed by the second respondent saying that these orders are against the order of the Bangalore Bench of this Tribunal in O.A. 600/91. In the order in O.A. 600/91 it is clearly stated that all the applicants therein were either appointed directly as Precision Mechanics or promoted as such on various dates from 31.8.74 to 21.8.81. The said order says that Precision Mechanics who were in the pay scale of Rs.425-700 prior to 28th January, 1992 are eligible for promotion to the post of Chargeman Grade I and above as per statutory rules and orders then in force. The said order directed the respondents to promote them notionally as per statutory rules on order No.SRO 246/81 or the vacancies of those years between September, 1981 and January 1992. There is no case for the applicants that they have worked as Precision Mechanics even for a day. All the applicants in O.A.600/91 were working as Precision Mechanics. Applicants in this O.A. and the applicants in O.A.600/91 stand on different footing and that being so, the applicants herein cannot claim any relief based on the order in O.A.600/91.

8. In the impugned orders respondents have relied on statutory rules and orders (SRO 245/75), Government of India, and the Ministry of Defence letter dated 13th of April, 1981. All these documents were produced and we have gone through the same. These documents support the stand taken by the respondents. Thus we find no ground to quash A6 to A9.

9. The other relief sought by the applicants is to direct the second respondent to grant them promotion as Precision Mechanics with effect from 1.7.1973. Applicants have

approached this Tribunal for these reliefs after a lapse of 26 years. These four applicants filed O.A.476/95 before this Bench of the Tribunal to direct the respondents to promote them as Precision Mechanics. By virtue of filing O.A.476/95 limitation cannot be saved. In the order in O.A.476/95 it is stated thus in para 2:

"However, without going into the merits, and without going in to the question of limitation, we would only direct the respondents who at least should be aware of the rules governing the subject matter to inform applicants regarding the position under the rules."

Again in the same paragraph it is stated that:

"We make it clear that we have not gone into the question of limitation nor found any right in the applicants."

10. If the applicants are aggrieved by not having promoted them as Precision Mechanics with effect from 1.7.1973, they should have sought their remedy within the time prescribed and not after lapse of 26 years. Even when they approached this Bench of the Tribunal by filing O.A.476/95, they sought a direction to promote them as Precision Mechanics from a date going back by 23 years from the date on which they approached this Tribunal. That being so, the claim of the applicants is barred by limitation.

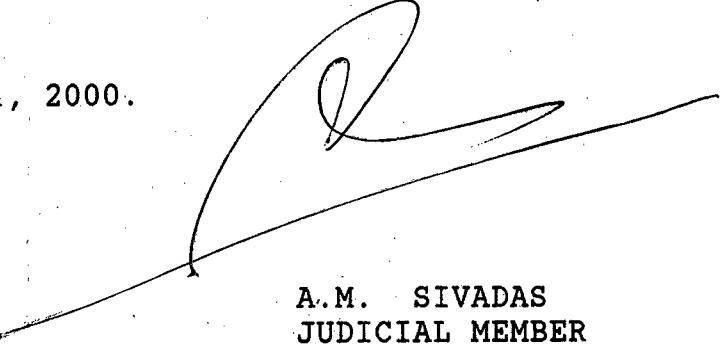


11. If the applicants are promoted as sought for by them with effect from 1.7.1973, it will be affecting the seniority of those who were promoted subsequently and it will be unsettling the settled position which cannot be allowed to be done after lapse of considerable time.

12. Accordingly, the Original Application is dismissed.
No costs.

Dated the 28th of April, 2000.


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

P/2742000

LIST OF ANNEXURES REFERRED TO IN THIS ORDER

Annexure A3: True copy of the judgment dated 6.4.93 in O.A.No.600/91 rendered by the CAT, Bangalore Bench.

Annexure A4: True copy of the judgment dated 5.8.96 in O.A.No.476/95 rendered by the CAT, Ernakulam Bench.

Annexure A6: True copy of the reply received by the 1st applicant vide No. NPOL/A/LC/192/54 dated 15.11.96 from the 1st respondent.

Annexure A7: True copy of reply received by the 2nd applicant from 1st respondent vide No.NPOL/A/LC/192/54 dated 15.11.96.

Annexure A8: True copy of reply received by the 3rd applicant from 1st respondent vide No.NPOL/A/LC/192/54 dated 15.11.96.

Annexure A9: True copy of reply received by the 4th applicant from 1st respondent vide No.NPOL/A/LC/192/54 dated 15.11.96.

Annexure MA1: Photo copy of the SRO 245 of July, 75, Government of India, Ministry of Defence letter No.F.97037/PM/RD-24 (Part III)/149/5/D (R&D) dated 13th April, 1981 and SRO 246 of 1981.