IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 222/91 and 232/91 199
T. A. No.

DATE OF DECISION 30.4.92

S.V.Sanadanan — Applicant (s) in O.A.222/91
L.Subramanian — Applicant in O.A. 232/1991

Mr.M.Girijavallabhan — Advocate for the Applicant (s) in both the O.As.

Versus

The Union of India represented by the Secretary, Ministry of Defence, New Delhi and two others. — Respondent (s)

Mr.K.Prabhakaran, ACGSC (OA 222/91)
Mr.P.Sankarankutty Nair (O.A.232/91) — Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.P.MUKERJI,VICE CHAIRMAN

The Hon'ble Mr. A.V.HARIDASAN,JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. To be circulated to all Benches of the Tribunal ? No

JUDGEMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

Since idential questions of facts, reliefs and circumstances are involved in the aforesaid two applications they were heard together and we are disposing them of by a common order as follows:-

2. Both the applicants have been working as Brush Painter(Skilled) in the Naval Ship Repair Yard , Cochin. They have challenged the impugned orders dated 22nd June 1990 at Annexure E imposing a penalty of 'censure' and the order dated 7th December 1990 at Annexure-G by the appellate authority confirming the penalty of censure. The charge against the applicant was as follows:-

> "(a) Did wilfully disobey the lawful/reasonable orders of his superior authority in that he refused to carry out the hull preparation of HUT Balshil under-going repairs by using electric wire brush at 1445 hrs on 09 May 90.
>
> (b) Did wilfully act in an insubordinate manner towards his superior officers, Shri P.V.Jayaprakashan, Sr.Chargeman and LT CT Joseph at 1445 hrs on 09 May 90 and challenged to meet any consequences."

The applicants' contention is that as a Brush Painter he was never trade-tested for

using electrical equipment like the electric wire brush and on 11.5.1990 when he was directed by his superiors to use the electric wire brushing machine for preparing the hull of a vessel, he told him that he was not trained to handle any electric equipment for surface cleaning before painting . This was interpreted by his superiors as an insult and insubordination and he was unjustly chargesheeted. His contention is that operating the electric wire brush when he was not trained to use it was risky. He cited an instance of an Unskilled person who died of an accident by the bursting of a tyre for inflating of which he was not trained.

3. In the counter affidavit the respondents have stated that the applicant in the first application was trade tested for promotion as Brush Painter (Semiskilled) on 30.8.83 as per the job requirement of the post. He took over as such on 13.12.83. The post was upgraded as Brush Painter (Skilled) and he was redesignated as such with effect from 15.10.84. He was again trade tested on 24.12.85 and promoted to the post of Brush Painter HS II with effect from 27.9.89. As regards the applicant in the second application it has been stated that he was trade tested for the post of Brush Painter Grade III in 1982 and promoted as officiating Brush Painter (Semiskilled) for short spells and regularly promoted on 31.12.83. Like the first applicant he was re-designated as Brush Painter (Skilled) with effect from 15.10.84. Even if for the sake of argument it is accepted that they were trade tested for cleaning of surface with sand paper of different grades that does not mean that they can be employed exclusively for duties in which they were trade tested. As per the syllabus (Annexure R1) of Brush Painter they are required to have a thorough knowledge of cleaning and maintenance of brushing gear and tools. The electric wire brush has been in effective use in the Naval Ship Repair Yard, Cochin since February, 1988 and the applicants themselves had operated that equipment weighing only five kilos or less on various occasions between 13.2.89 and 24.11.90 . They blatantly refused to comply with the instruct-

ions to operate the electric wire brush. The machine is only a simple electro mechanical device, very easy to operate requiring no expertise or training. It is one of the cleaning gears which the individual, as a skilled person, is expected to operate. The applicant never asked for any opportunity for personal hearing at any stage. They have denied any bias on the part of the disciplinary authority and have stated that there is no charter of duties of different posts and that the electric wire brush can be operated even by an unskilled worker. They have referred to the various orders under which the disciplinary authority and the appellate authority in this case have been empowered to pass orders of penalty and appellate order.

4. In the rejoinder the applicants have denied having handled the electric wire brushing machine.

5. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The respondents have clearly and unambiguously indicated the various dates in which the applicants had on earlier occasions operated the electric wire brushing machine. This machine weighing less than five kilos is capable of being operated by Unskilled workers. The applicants have been given only a minor penalty of censure. They were given ample opportunity to defend themselves. Since they did not ask for a personal hearing, it was not necessary in such a case to give them a personal hearing. We do not find any merit in the applications and dismiss the same without any order as to costs.

30.4.92

(A.V.Haridasan)
Judicial Member

(S.P.Mukerji)
Vice Chairman

n.j.j

CERTIFIED TRUE COPY
Date 7.5.1992
Deputy Registrar