

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 255/2010

Dated ~~29th~~ 29th day of June, 2011

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

- 1 K.V.Maiju, S/o Chacko Varkey R/o Kandathil House
Konthuruthy, Thevara P.O, Unskilled Labour, Stores,
Naval Armament Depot, Alwaye.
- 2 Sooraj Chandran, S/o. Chandran,
Residing at Murinjazhittikkal House,
Murikkumpadam, Azhickal (P.O),
Vyppin, Unskilled Labourer, Stores,
Naval Armament Depot, Alwaye.
- 3 K.R. Subramanyan, S/o. M.N. Ramadasan Nair,
Residing at Devi Vihar, Thuravoor (P.O), Cherthala,
Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.
- 4 C.C. Selvarajan, S/o. C.U. Chathan
Residing at Chethangandu House, Maradu (P.O), Ernakulam,
Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.
- 5 Biju Velayudhan Nair, S/o. Velayudhan Nair
Residing at Madathil House, Chilave (P.O), Thodupuzha,
Idukki District, Unskilled Labourer, Stores,
Naval Armament Depot, Alwaye.
- 6 T.K. Subramanian, S/o. T.P. Krishnan
Residing at Thozuthinkal House, CLRA-B, Chebesery Lane,
Thripunithura, Ernakulam, Unskilled Labourer, Stores,
Naval Armament Depot, Alwaye.

- 7 A.M. Glaida, D/o. A.K. Madhavan, Residing at Angilivelil House,
Kannangathu Temple Road, Edakochi, Kochi - 26
Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.
- 8 P.K. Sadanandan, S/o. P.D. Kochukunju,
Residing at Pathalil House, Ayroor North (P.O), Thiruvalla,
Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.
- 9 C.R. Sreenivasan, S/o. Raghavan Nair,
Residing at Chittoor Vedu, Naduvathu Chery, Panmana
Puthenchanta (P.O), Chaura, Unskilled Labourer, Stores,
Naval Armament Depot, Alwaye.
- 10 George M. Thomas, S/o. M.J. Thomas,
Residing at Mammoottil House,
Thattungathara Road, Kadavanthra,
Kochi - 682 012,
Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.
- 11 G. Ajithkumar, S/o. K. Gopalakrishnan,
Residing at Thottukadavil House, Harippad (P.O), Vettuvani,
Alappuzha District,
Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.
- 12 A. Sudheer Babu, S/o. A. Kuttisankaran Nair
Residing at Athiangattil House, Trikkaloor (P.O), Palakkad District,
Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.
- 13 K.S. Suresh, S/o. K.N. Sivaraman Nair,
Residing at Kizhakedath House, Airapuram (P.O), Airapuram,
Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.
- 14 R. Santhosh Kumar, S/o. P. Ravindran
Residing at Kandamkandath House, Mandamparambu (Via),
Erumapetty (P.O), Trichur District,
Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.
- 15 R. Santhosh Kumar, S/o. N. Radhakrishnan Nair
Residing at Santhosh Bhavan, Vuzhuthanam, Pulippad (P.O),
Haripad, Alappey,
Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.

- 16 Regi K. Paulose, S/o. K. Paulose, Manzalaserry, Peravam,
Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.
- 17 K.S. Pramod, S/o. K.V. Sankaran, Residing at Kudathukadavil House,
Kaitharam (P.O), North Paravoor,
Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.
- 18 P.M. Yesudas, S/o. P.S. Manuel, Residing at Padippurakkal House,
Alakanchery, Palluruthy, Kochi - 6
Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.
- 19 M.T. Thanka, D/o. Tharan, Residing at Muthanmalyil House,
Pamppakuda (P.O), Ramamangalam, Unskilled Labourer, Stores,
Naval Armament Depot, Alwaye.
- 20 V.R. Ragini, D/o. K.R. Ramakrishnakurup
Residing at Periyar Vihar, Ambalapady, N.A.D (P.O), Alwaye - 6
Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.
- 21 K.V. Devikala, D/o. K.K. Vijayan,
Residing at Aranikamparambil House,
Water land Road, Palluruthy, Kochi -6, Unskilled Labourer, Stores,
Naval Armament Depot, Alwaye.
- 22 T.V. Sasi, S/o. P.K. Vallen, Residing at Therthnakudi House,
Chelad (P.O), Kothamangalam, Unskilled Labourer, Stores,
Naval Armament Depot, Alwaye.
- 23 K.J. Antony, S/o. John, Residing at Kuraparakkal House
Venduruty, Kochi - 4, Unskilled Labourer, Stores,
Naval Armament Depot, Alwaye.
- 24 P.D. Jiju, S/o. Devassy P.P, Residing at Pollyial House,
Alangadu (P.O), Unskilled Labourer, Stores,
Naval Armament Depot, Alwaye.
- 25 Aneesh M.A., S/o. Asokan, Residing at Murikandathil House,
Cherai (P.O), Unskilled Labourer, Stores,
Naval Armament Depot, Alwaye.

- 26 Shibu George, S/o. George, Residing at Dhanya, Padamukal, Thrikkavu (P.O), Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.
- 27 P.S. Kishorkumar, S/o. Sugadevan Residing at Polaparambil House, Kumbalangi South, Unskilled Labourer, Stores, Naval Armament Depot, Alwaye.

....Applicants.

By Advocate Mr. P.V.Mohanan

Vs

- 1 The Flag Officer, Commanding in Chief, Head quarters, Southern Naval Command, Kochi.
- 2 The Chief General Manager, Naval Armament Depot, Aluva.

..Respondents

By Advocate Mr. Sunil Jacob Jose, SCGSC.

The Application having been heard on 13.6.2011 the Tribunal delivered the following:

ORDER

HON'BLE Mrs. K. NOORJEHAN, ADMINISTRATIVE MEMBER

1. The applicants who are working as Unskilled Labourers, challenge Annx.A4 and Annx.A5 in so far as it proposes to fill up the posts of Semi Skilled Laborers (SSL for brevity) in Ammunition Repair and in Gun Repair by direct recruitment of SSL in preference to the applicants who can be promoted/absorbed in these posts in accordance with the recommendation of the VI Central Pay Commission.

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2. Brief facts of the case as stated by the applicants are that they are recruited as Unskilled Labourers (USLs for short) of the Armament Depot in Southern Naval Command. The applicants except V.R.Ragini (applicant No.20) and R.Santhosh Kumar (applicant No.15) were appointed on 28.6.2007, V.R.Ragini on 23.8.96 and R.Santhosh Kumar on 6.2.2006. They were appointed against the sanctioned strength of USLs. Generally the unskilled laborers are promoted/ absorbed as semi-skilled labours on qualifying the departmental trade test conducted by the respondents. As per Annx.A1, the duties and responsibilities of unskilled and semi-skilled labourers are more or less the same. The unskilled labourers help the Semi-skilled (SSLs for short) and Skilled labourers. The scale of pay of USLs is the same pay scale of Group-D post. There are about 40 unskilled laborers including the applicants in the roll of the respondents against the sanctioned posts of SSLs and discharging similar duties as that of semi-skilled labourer. Therefore, they are entitled to be promoted/absorbed as SSLs. It is further stated that the 6th CPC has recommended that on merger of USLs with the SSLs they shall draw the revised scale of pay Rs.5200-20200 with grade pay Rs.1800 with effect from 1.1.2006. Since many of the applicants have passed the departmental qualifying examination (DQE for short) no further departmental test is required in their case for upgraded scales on merger of posts. Further the suitability of the incumbents need not be reassessed for granting them the higher replacement scale/grade pay. It is alleged that though the applicants are deemed to have been merged with semiskilled post from 1.1.2006 but the failure/delay on the part of the department to hold the necessary training forced them to stagnate as unskilled laborers and their further promotional avenue in Group-C post is affected. The applicants' Service Union took up the matter with the

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authorities concerned but in vain. They further alleged that the delay tactics adopted by the respondents led applications being invited for filling up the vacant posts in Ammunition Depot by direct recruitment. Therefore, denial of their absorption as SSL is discriminatory. The respondents are bound to accept the recommendations of the 6th CPC to treat them as SSL in regular posts. The promotional prospects will be bleak in case the respondents are permitted to go ahead with the direct recruitment. Therefore, such action of the respondents is unconstitutional, illegal and unsustainable.

3. The respondents filed reply statement. They submitted that the applicants are working as USL in Naval Armament Depot, Alwaye. Prior to implementation of the 6th CPC, the grade of SSL was the promotional grade of USL. Consequent on implementation of 6th CPC in the year 2008, the grades of USL and SSL stand merged with effect from 1st Jan 2006 and subsequently they have been upgraded to the pay in Pay Band I with Grade Pay of Rs.1800/- (Annx.R1). They added that Ministry of Defence in consultation with the Ministry of Finance has clarified vide ID dated 16.9.2009 that specific training programme is to be imparted to the USLs and SSLs in the upgraded Pay Band (Annx.R2). There are 463 USLs in various Units of the respondent who are required to be deployed in different Units under the Southern Naval Command having different trade structure in Aviation, Armament, etc. Accordingly training programme and syllabus have been worked out for training the USLs working in various Units including the applicants. It is also submitted that though the posts of USLs have been upgraded to Pay Band 1 with grade pay Rs.1800 w.e.f 1.1.2006 the post will be merged with SSL category after the training as stipulated in

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Annx.R2 with retrospective effect from 1st Jan. 2006 as per CDS(RP) Rules 2008. Therefore, on merger, the applicant will gain the seniority as SSL w.e.f. 1.1.2006 or the date of appointment as USL which ever is later. There are 415 sanctioned posts of USLs and 364 posts of SSLs out of which 463 USLs and 202 SSLs are working. If the grades of existing USLs and SSLs are merged as per Annx.R1, all these 665 personnel can be placed against the sanctioned strength of 779, as such no further sanction to accommodate them is required. It is further submitted that as far as the vacancies published for direct recruitment are concerned, prior to the implementation of the 6th CPC the USLs who passed the Departmental Qualifying Test with 4 years qualifying service were eligible to be considered for promotion. However for the last few years the vacancies could not be filled due to lack of eligible candidates. They further submitted that since the existing USLs will be upgraded to SSLs w.e.f 1.1.2006 or from the date of appointment which ever is later after the training programme, they will be senior to the new recruits. They added that Smt VR Ragini was appointed on 22.8.1996 as Safaiwala and on conversion absorbed as USL only on 25.6.2007.

4. The applicants filed rejoinder and averred that many of the them obtained qualification of SSLC and successfully completed ITI course. All applicants have undergone Explosive Ammunition Awareness Course conducted by the Department. This raining was rigorous. They have undergone training course in Small Arms Ammunition, Hand Grenade, Motor Ammunition, Motor Rocket Ammunition, Smoke/Pyrotechnic Stores, Demolition Stores Air Ammunition, Under Water Ammunition and Depth charge/mines, Torpedoes, etc. They therefore pleaded that they are entitled to be absorbed/promoted as Semi Skilled Ammunition Repair



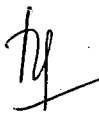
Labourer and Gun Repair Labourer against the existing regular vacancies.

5. The respondents have filed additional reply stating that as per the provisions contained in the Recruitment Rules, USLs have the opportunity to qualify in department Qualifying Tests for promotion to various Semi Skilled Trades. The applicants are presently working in Naval Armament Depot (Alwaye) and are liable to be transferred to any other Unit under Southern Naval Command as per availability of vacancy. As such, the applicants alone cannot have a claim over the vacancies of GRL(SS)/ARL(SS) and the next grade of Skilled level vacancies in NAD (Alwaye). They further submitted that 33 posts of ARL(SS) and 17 posts of GRL(SS) are lying vacant in the Depot from 2004 because USLs with requisite service and DQT passed were not available for promotion which affected adversely the operation of the Unit. As per the Recruitment Rules, the vacancy of SSL is to be filled up by promotion failing which by direct recruitment. After waiting for a long period for any qualified personnel for promotion, the respondents had no option but to initiate action to fill up the vacancies by Direct Recruitment.

6. The respondents filed a counsel statement clarifying certain issues raised by this Tribunal regarding the promotion prospects of the applicants. It is submitted that as per the existing Recruitment Rules, for the post of Semi Skilled workers published vide SRO 150/2000 dated 01st June 2000, (R3) method of Recruitment is, by promotion failing which by Direct Recruitment. Eligibility of promotion for the posts stipulated in the Recruitment Rules is "Unskilled Labourers with 04 years regular service in



the grade who have passed in Departmental Qualifying Test to become eligible for consideration for promotion. The applicants have only 2 to 3 years of service in the grade of USL and not qualified in DQT for the grade of GRL (SS) or ARL(SS) and therefore not eligible to be considered for absorption against the vacancies of GRL(SS) and ARL(SS). As on date a total number of 463 Unskilled Laborers are working in various units under Southern Naval Command. The applicants in the subject OA are few among them who are working in NAD(A) for the last 2 to 3 years. These applicants also could be transferred to other units under Southern Naval Command and they cannot be considered in isolation. They submitted that in the seniority list of USLs, the applicant's position is above 300 which indicates that, around 300 personnel senior to the applicants in the grade are working in other units. Hence considering the applicants alone for the posts of GRL (SS) and ARL(SS) will be depriving the right of other USLs working in various units under Southern Naval Command who are also holding same post. It is stated that, no right is conferred on the applicants for claiming absorption in the post of ARL(SS)/GRL(SS) for a mere reason that they are presently working in Naval Armament Depot. Further they submitted that, all USLs have an equal opportunity to appear in DQTs and qualify for promotion to various Semi Skilled trades. The applicants do not have requisite qualifying service with Departmental Qualifying Test passed for



promotion to the posts of ARL(SS)/GRL(SS).

7. The applicants filed additional rejoinder and averred that as USL stand merged with semi-skilled labourers, they need not take any further departmental qualifying test for promotion to semi-skilled posts. Therefore the applicants may be permitted to appear for the trade test on completion of probation period. The applicants, ever since their recruitment are working in the Ammunition Workshop and Gun Warf Factory and stores in the Naval Armament Depot. Therefore, they averred that they have to be necessarily absorbed as ARL(SS) and GRL(SS).

8. The respondents filed second additional reply statement rebutting the claims made by the applicants. They submitted that the applicants were appointed against Govt sanctioned posts and their appointment is regular. As per the procedure in force, the employees though being posted against the regular vacancy, they would be placed as temporary till their period of probation is successfully completed. Presently Govt sanction is available for a total of 779 posts of SSL/USL for various units under Southern Naval Command. According to the respondents there are 463 USLs and 202 SSLs now working against 779 sanctioned posts in total. All the USLs have already been granted pay scales and grade pay as recommended by the 6th

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CPC from the date of their joining service in case the appointment was after 01.01.2006. They added that a number of SSL grades viz, Packer(SS), Vulcaniser(SS), Tradesmanmate(SS), Tailor(SS), Gas Cutter(SS), Hammerman(SS), GRL(SS), ARL(SS) etc., exist in the sanctioned complement of the units under Southern Naval Command. As per the recommendation of Vith Central Pay Commission, the grades of USL and SSLs have been merged and upgraded to a higher pay band. The merger of USLs to SSLs is intended to have a multi-skilling work force to be deployed in any Unit. No person working as USL has the right to claim to be absorbed as SSL in a particular unit. Though USL and SSL have been merged as per the recommendation of Vith CPC, the Recruitment Rules for the hierarchical grades have not been revised. The existing USLs will be upgraded to the status of SSL as a common grade for which a specific notification with revised Recruitment Rule is awaited from the Competent Authority. The provisions contained in the existing Recruitment Rules are required to be followed till revised Recruitment Rules are notified. Therefore they contended that Annexure A-2 order is to promote all USL to available sanctioned posts of SSL is incorrect. According to the respondents through this O.A the applicants are trying to get the status of GRL(SS)/ARL(SS) as these posts fall in the feeder category for promotion to Ammunition Mechanic II. They submitted that there are 58 posts of ARL(SS) and 41



posts of GRL(SS) against which only 17 and 13 respectively are now working. This leaves a vacancy position of 69 against which notification vide Annexure A-4 dated 04.07.2009 was released for direct recruitment of 40 SSLs in the trade of Ammunition Repair Labourer and Gun Repair Labourer. The written test was conducted in March 2010. A large number of candidates have attended the examination and the result could not be published due to the interim order of this Tribunal. Existence of such a large number of vacancies is adversely affecting the work in the Ammunition Repair and Gun Repair workshops. Therefore the respondents request for vacating the interim order.

9. Heard the learned counsel for the parties and perused documents.

10. It is undisputed that the USL and SSL stand merged and they are placed in the same Pay Band I consequent on implementation of 6th CPC recommendations. As per general orders for Central Government employees the existing employees in the Group D cadre are to be placed in P.B I after undergoing the prescribed training programme. However, they are also granted some time to qualify in SSLC as matriculation is fixed as the minimum qualification for all posts in the Group C cadre as Group D cadre stands discontinued. During the pendency of the O.A, the respondents

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conducted the training programme and placed the applicants in the higher pay scale from the date they joined service as USL. The respondent department will have to frame new recruitment rules for promotion of SSL. Hence the applicants may have to appear for the necessary trade test to work in any particular trade as the work is of a technical in nature. According to the respondents the applicants rank below 300 in the seniority list of SSL and they have to await their turn for placement in any particular post of GRL(SS) or ARL(SS).

11. As far as the challenge against the Annexure A-4 notification, is concerned the respondents have clarified that the vacancies relate to the year 2004. Therefore the recruitment of SSL will be governed by R-3 Recruitment Rules dated 01.06.2000. The respondents have contended that direct recruitment was resorted to as a last option as DQT qualified USLs with 4 years service were not available. There are 26 applicants in the O.A while the number of sanctioned posts is 99 out of which 69 posts are vacant. Therefore even after finalising the direct recruitment process, there shall be sufficient number of vacancies for the applicants for further promotion if they meet the norms prescribed in the recruitment rules to be framed and rank senior in the seniority list of SSL. So none of their rights will be adversely impacted by filling up direct recruitment vacancies. In fact the



applicants were also recruited in 2007, under the provisions of Annexure A-3 recruitment rules, when VI CPC recommended matriculation as the minimum qualification. Of course, the CPC report was released much later. Therefore the respondents are at liberty to complete the direct recruitment process already initiated.

During the course of hearing the applicant's counsel requested for a direction to the respondents, to allow the applicants to work as SSL in Units under Naval Armament Depot as they are working there for four years now and have undergone the training in ammunition related matters. The respondents have vehemently opposed such a proposition. However, subject to their seniority and fulfilling the prescribed standards and test, the respondents may consider their representations at the appropriate time.

12. The respondents have stated that the merger of the applicants with semiskilled labourers is already effected and they are placed in the higher pay scale of Rs.5200-20200 with grade pay Rs.1800 from the day, they are appointed as USL. They will also be placed enbloc senior to the SSL, to be directly recruited now. The applicants can submit their representations to continue in their respective trades when necessary to the respondents for consideration. The respondents are directed to consider their applications, take an appropriate decision and intimate them if and when a need arises to transfer them out Naval Armament Depot.

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However their plea to set aside the direct recruitment is untenable in view of my observations in para 11. The interim order staying direct recruitment is vacated. The O.A is disposed of with the above directions. No costs.

(Dated this the 29th day of June 2011)


(K. NOORJEHAN)
ADMINISTRATIVE MEMBER

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