

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A No. 363 /2010

Thursday, this the 23<sup>rd</sup> day of February, 2012.

CORAM

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER  
HON'BLE Ms. K.NOORJEHAN, ADMINISTRATIVE MEMBER

1. C.K.Sajeev, Plater (HS),  
Naval Ship Repairing Yard,  
Cochin-682 004.
  2. P.P.Aji, Plater (HS),  
Naval Ship Repairing Yard,  
Cochin-682 004.
- Applicants

(By Advocate Mr C.S.G.Nair))


v.

1. Flag Officer Commanding-in-Chief,  
Southern Naval Command,  
Cochin-682 004.
  2. Union of India represented by  
its Secretary, Ministry of Defence,  
South Block, New Delhi.
  3. K.V.Sivanandan,  
Plater (HS),  
Naval Ship Repairing Yard,  
Cochin-4.
- .... Respondents

(By Advocate Mr Sunil Jacob Jose, SCGSC for R.1 & 2)

(By Advocate Mr M.R.Hariraj for R.3)

This application having been finally heard on 15.02.2012, the Tribunal on 23.02.2012 delivered the following:



ORDER**HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER**

Brief Facts: The applicants joined the service in Naval Ship Repairing Yard (NSRY) as Platers (semiskilled). They are ITI(Sheet Metal Trade) qualified and had the apprenticeship training in NSRY during 1988 – 90. There are different Trades in the Skilled Grade – Plater, Sheet Metal, Blacksmith and Tinsmith. Of these, for Plater and Sheet Metal, the qualification required was ITI Sheet Metal. The first applicant joined the service as Plater (Skilled) in 1996 while the second applicant joined the said post in 1999..

2. Initially, there were various grades of the above trade viz., Skilled, Highly Skilled Grade II and Highly Skilled Grade I. Later on, effective from 01-01-1996, the Highly Skilled Grade II and I were merged and came to be known as Highly Skilled. Sometimes in 2003, certain percentage of the Highly skilled were termed as Master craftsman (MCM). In fine, the ratio of the above posts was 45% Skilled and 55% Highly skilled, of which 25% had been designated as MCM. However, the post of MCM was not treated as a part of hierarchy and was treated as a placement.

3. The 2<sup>nd</sup> respondent had issued a Memorandum dated 04-08-2006 (Annexure A-1) as per which, the Trades of Plater, Blacksmith and Sheet Metal had been kept separate at Skilled grade, but merged at the Highly skilled grade and it is from out of the merged HS grade that further elevation to the level of Chargeman Grade II, was to take place, followed by Grade I, Asst. Foreman and Foreman (Gz). A general note was initially added to the above Memorandum in its enclosure relating the post of Fitter, which was amended by letter dated 18-12-2007 to the following extent:-



*"The modus operandi for promotion of Platers, Blacksmith and Sheet Metal Workers will be to maintain their inter-se seniority with respect to each other. As and when required the vacancies will be carved from either of the trade and will be released for the trade eligible for promotion as per seniority. This note is applicable for workers in NSRY(Kochi) and ND (Visakapatnam) only."*

4. In OA No. 149 of 2008 decided on 18-03-2009, the above general note was quashed to the extent of making the provisions of OM dated 04-08-2006 applicable to only two of the three Commands of the Indian Navy. Annexure A-9 of the OA refers. However, there was some misunderstanding of the above order and as a result thereof, two letters issued in the wake of and implementation of the OM dated 04-08-2006 vide Annexure A-8 dated 18-12-2007 and another one dated 28-01-2008 had been cancelled in toto. Later on, on realising the mistake, the respondents had issued yet another letter dated 31-03-2010, vide Annexure A-13. In so far as merger of the trades of Plater, SMW and Blacksmith are concerned, the same had been amended as under:-

Tinsmith to be merged and designated as Blacksmith. Sheet Metal Worker, Sheet Metal and Plater to be merged and designated as Plater. Plater and Blacksmith are to be merged at HSK level and on promotion to supervisor, will be designated as CM(Plater)

5. On the basis of the above Memorandum dated 04-08-2006, shufflings took place and seniority at various grades were revised. In that process as also on the basis of certain decision of the Tribunal (e.g. OA No. 498 of 2006), the applicant No. 1 got his promotion as HS w.e.f. 01-01-2007.

6. The grievances of the two applicants are explained in Annexure A-4 and A-6. The same are as under:-

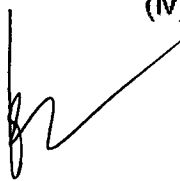


(a) Applicant No. 1: In the wake of various orders of the Tribunal in various OAs, the respondents had revised the seniority of the Platers (HS) etc., and on the basis of such revised seniority, promotion to the post of MCM granted. In that process, one vacancy of MCM Plater was given to respondent No. 3, w.e.f. 01-04-2008. Impugned order at Annexure A-3 refers. The applicant No. 1 claimed in the letter dated 08-03-2010 (Annexure A-4) that diversion of one post of MCM (Plater) to MCM (Sheet Metal Worker) amounted to merger of the posts of Plater and SMW at the level of HS grade itself, whereas, as per OM dated 04-08-2006, such a merger is contemplated at the level of Chargeman II. Thus, the applicant claimed that he be considered for the post of MCM (Plater).

7. Applicant No. 2: Vide letter dated 18-03-2009, this applicant passed the trade test and also completed 8 years of service as Skilled worker which are pre-requisites for being considered for promotion as HS (Plater). Since from 20-09-2007 out of four posts of HS(Platers) only three were positioned, the incumbent to the fourth having been promoted as Chargeman II, the applicant (No. II) should be considered for promotion to the post of HS (Plater) from that date.

8. Reliefs sought for are as under:-

- (i) To call for the records leading upto the issue of Annexure A-3 and quash the same;
- (ii) To direct the respondents to fill up the vacancies in Plater Trade existed as on 31.3.2010 by the employees in Plater Trade only;
- (iii) To direct the 1<sup>st</sup> respondent to cancel the promotion granted to the 3<sup>rd</sup> respondent in MCM grade against the vacancy in Plater Trade;
- (iv) To direct the 1<sup>st</sup> respondent to grant MCM grade to the 1<sup>st</sup> applicant with effect from 1.4.2008 and H.S promotion to the 2<sup>nd</sup> applicant with

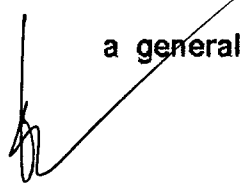


effect from 20.9.2007;

(v) Grant such other relief or reliefs which this Hon'ble Tribunal may deem fit and necessary in the circumstances of the case.

9. Private respondent in his reply has raised preliminary objection as to limitation, as the order impugned was dated 19-02-2009 whereas the OA had been filed in May 2010. Thus, the application has not been filed within one year of the date of the impugned order. He has further stated that in so far as Plater is concerned, the two grades available are Skilled and HS Grade I. In so far as Sheet Metal Worker is concerned, the two grades available are Skilled and HS Grade II. Likewise, in respect of Blacksmith, the two grades are Skilled and HS Grade II, while the trade Tinsmith had all the three grades SK, HS Grade II and HS Grade I. Promotion to HS Grade I could be possible from HS Grade II and not directly from Skilled. Thus, in so far as promotion to HS Grade I in the trade of Plater is concerned, all the trades where HS Grade II are available have been included. Based on the V Central Pay Commission Recommendations, the two grades of Highly Skilled have been merged together and came to be called as Highly Skilled. This made all the four trades having the grades of Skilled, Highly Skilled (and MCM which is carved out of from Highly Skilled which was not considered as a promotion but treated as only placement).

10. Vide Annexure A-1 letter dated 04-08-2006, there had been merger of certain trades at certain levels. Thus, the trade of Blacksmith, Plater and Sheet Metal Worker have been merged at Highly Skilled (HS) level. This has substantially changed the earlier provision of all SK aspiring for HS Grade II etc., Such a situation resulted in certain anomaly of junior getting promotion prior to senior and thus, by Annexure R3(f) Southern Naval Command took up the matter with the Chief of the Naval Staff and sought approval for endorsement of a general note made to maintain a combined seniority roster to Platers and

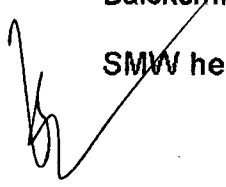


Sheet Metal Workers for promotion as HS/Master Craftsman Grade. (Such a combined seniority is stated to have been followed in respect of the trade GT Fitter/CE Fitter in Naval Dockyard Mumbai).

11. The private respondent further stated that the applicant entered the service only in 1996 as Skilled Worker and later on as on 01-01-2007 got his promotion as Highly Skilled Grade. He has to put in 10 years of service both as Skilled and HS of which minimum of three years service ought to be in HS grade in order to be considered for placement as MCM. In the case of the applicant, thus, he becomes eligible for placement as MCM only on or after 01-01-2010 (three years from 01-01-2007). Vacancy in the grade of MCM occurred prior to October, 2009 when Annexure A-8 letter dated 18-12-2007 was cancelled and as such, the rule prevailing on the date of occurrence of vacancy alone would govern for filling up the post and accordingly, the applicant was accommodated as MCM against a vacancy of MCM(Plater).

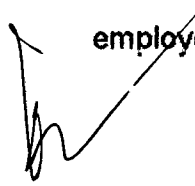
12. Thus, the private respondent justified his promotion as MCM prior to the applicant and against the post of MCM Plater, though he was HS (Sheet Metal Worker).

13. Official Respondents in their reply stated that in so far as Applicant No. 1 is concerned, his promotion to the post of MCM could be crystallized only when he had a service of ten years in all both in the Skilled and HS Grade, of which minimum of 3 years must be in the grade of HS. As the said applicant had been promoted as HS only w.e.f. 01-01-2007, he would complete the 3 years service only on 31-12-2009. In so far as the trade of Plater, Sheet Metal Worker and Balcksmith, Annexure A-13 letter provided for merger of the trade Plater and SMW henceforth to be designated as Platers. Platers (merged) and Blacksmith



are to be merged at the level of HS level and on promotion to supervisor, will be designated as CM (Plater). However, since the date of introduction of this amendment was not made known, clarification was sought and the Integrated Headquarters had opined that the above would take effect w.e.f. 29-10-2009. This had resulted in a review to be carried out in respect of promotion/placement granted to the employees belonging to the grades of Blacksmith, Plater and Sheet Metal Worker, including the applicant and the 3<sup>rd</sup> respondent. In that process, the placement afforded to the third respondent from 01-04-2008 is to be cancelled. He would be considered for placement as MCM from 01-10-2009. Though the applicant No. 1 is senior to the third respondent, as his promotion as HS came only on 01-01-1007, and as the requirement of 3 years of service as HS could be fulfilled by the said applicant only on 01-01-2010, the claim of the applicant for his placement as MCM from 01-04-2008 cannot be accepted. As regards the second applicant, he becomes eligible to be considered for promotion to HS level only from 01-01-2008 and not from 20-09-2007 as the requirement of eight years qualifying service is 8 calendar years which the said applicant completed as on 31-12-2007. And, thus, he would be considered for promotion as HS as per his eligibility criteria.

14. It has also been stated by the official respondents that vide Annexure R-3 (1) & (2), in partial modification of 6<sup>th</sup> CPC recommendations, Government of India, Ministry of Defence have issued order for further re-structuring of cadre of Artisan Staff vide Order dated 14-06-2010 read with order dated 22-06-2010. This would entail rescheduling of seniority of all the persons in the Artisan Cadre and the draft seniority list would be prepared and forwarded to the units where the affected employees are working. The seniority list will be finalized and subsequent promotions effected only after disposing of representations of employees if any.



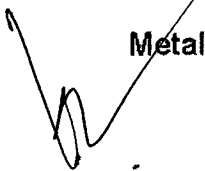
15. In their rejoinder, the applicants have contended that after filing of the OA, the respondents are precluded from taking any action on the subject in view of the bar under Sec.19(4) of the A.T. Act, 1985.

16. Counsel for the applicant argued that every time there is a fresh seniority and the promotions are upset on the basis of revised seniority. The applicants being senior should get their due as per the rules.

17. Counsel for private respondents stated that the decision of the respondents is in accordance with regulations that governed the filed on the date of arising of vacancy. Again, he has stated that the earlier order dated 18-03-2009 in OA No. 149 of 2008 has been sought to be reviewed by the respondent No. 3 to this OA (363/2010) and decision in the said RA would have an impact on this case.

18. Official respondents argued that the applicants are not due for their promotion and they would be considered at the appropriate time. As regards the revision of seniority in the wake of the issue of order dated 14-06-2010, they have made available the records for our perusal.

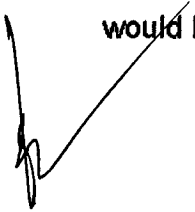
19. Arguments were heard and documents perused. Applicant No. 1 has claimed the post of MCM by dislodging Respondent No. 3 and from the date the said respondent No. 3 was positioned in the said post. He bases his claim that merger of Plater and Sheet Metal Worker is at the stage of H.S. for further promotion to CM2 and not for promotion to MCM itself. From that point of view, the respondent No. 3 who is occupying the post of Plater as he is from Sheet Metal Worker trade, should be dislodged. And, as the applicant belongs to





Plater Trade, in that place, he should be considered for promotion. However, in so far as promotion of the applicant No. 1 is concerned, both the official respondent as well as the private respondents are right in that unless the applicant fulfills the requisite qualifications/experience as per the rules, just because he belongs to plater trade and that vacancy exists in the post of MCM, he cannot be considered for promotion/placement. His turn would come only w.e.f. 01-01-2010. Thus, the claim of the applicant No. 1 is premature.

20. Coming to the dislodgement of the respondent No. 3, there is likely to be change in the entire scenario inasmuch as with the issue of order dated 14<sup>th</sup> July 2010, effective from 01-01-2006, there would be four grade structure, and MCM which hitherto was treated as placement and is personal to the individual, would be treated as a full fledged promotion. Para 4 of the said order dated 14-06-2010 refers. The contention of the applicant is that merger of the three trades Blacksmith, Plater and Sheet Metal Worker would take place only at the level of Chargeman and not at the level of HS. That situation may have to change now since, at the relevant point of time, MCM was not forming a part of hierarchy whereas, as per order dated 14-06-2010 the same now forms part of hierarchy and is effective from 01-01-2006. In fact, the records made available at the time of hearing reflect that certain options have been asked from the employees for switching over to other trades and on the basis of the same, a revised draft seniority has also been prepared and circulated in early January, 2012. The respondents shall consider the issue at the time of drawing the final seniority as they have stated in the counter and act accordingly. As regards the second applicant, respondents have clearly stated that his case for promotion as HS would be considered as per his eligibility criteria.



21. In view of the above, the OA lacks in merit and is therefore, **dismissed**. However, the observations contained in the preceding paragraph shall be kept in mind by the respondents at the time of drawing the seniority in the wake of issue of the letter dated 14-07-2010.

  
**K.NOORJEHAN**  
**ADMINISTRATIVE MEMBER**

  
**Dr K.B.S.RAJAN**  
**JUDICIAL MEMBER**

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