

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

ORIGINAL APPLICATION NO. 550 of 1992.

this the 19th day of February'2001.

HON'BLE MR RAFIQ UDDIN, MEMBER(J)
HON'BLE MR M.P. SINGH, MEMBER(A)

Neelam Kumar, aged about 45 years, S/o late B.N. Tewari, resident of T-85/2, Victoria Line, M.E.S. Quarters Lucknow Cantt. working as Charge Mechanic Refrigerator H.S.-II AGE/EM Hospital, G.E. E/M Cantt., Lucknow.

2. Harbachan Singh, aged about 46 years, S/o late Kishan Singh, resident of 5/121 Lajpat Nagar, Chowk, Lucknow-3 working as Charge Mechanic Refrigerator H.S.II AGE E/M G.E. E/M Cantt., Lucknow.

Applicant.

By Advocate: Sri N. Upreti.

Versus.

Union of India through Secretary to Ministry of Defence, New Delhi.

2. Engineer-in-Chief, Army Headquarters, New Delhi.
3. Chief Engineer, Central Command, Cantt., Lucknow.
4. Chief Engineer, Lucknow Cantt., Lucknow.
5. Commander Works Engineer, 229 M.G. Road, Lucknow.
6. Garrison Engineer E/M 36, Lal Bahadur Shastri Marg, Lucknow.

Respondents.

By Advocate: Sri D.S. Gaur for Sri D.R. Sinha.

O R D E R (O R A L)

RAFIQ UDDIN, MEMBER(J)

The applicants have filed this O.A. seeking declaration that the order dated 25.6.1992 is illegal and void and they are entitled to be placed in H.S. Grade-I from 15.10.1984 with all consequential benefits including the arrears of pay and allowances from 15.10.1984 without holding any trade test for H.S. Grade-I.

2. The brief facts of the case are the applicant no.1

no.2 joined on 17.5.1967 on the same post i.e. Motor Pump Attendant. Subsequently, both the applicants were promoted as Refrigerator Mechanic on 12.2.1973. It is also not disputed by the respondents that in the year 1976 the applicant no.1 had passed the trade test of Charge Mechanic Refrigerator, while the applicant no.2 passed the same test in the year 1977. The applicants claim that both of them were placed in the grade of H.S. Grade-II.

3. The case of the applicants is that the Ministry of Defence, Government of India issued instructions with reference to categorisation of various trades in the Military Engineering Service by letter no. 3816/DS/O&N/Civ.-1/84 dated 15.10.1984 and the letter no. 90270/89/EIC dated 29.10.1984 which were circulated by the Chief Engineer, Headquarters Central Command, Lucknow vide his letter dated 28.8.1985 in which it was provided that there shall be 15% highly skilled grade-I posts and 20% highly skilled Grade-II posts and the rest skilled. Para 17 thereof provides that posts of Charge Mechanic/Charge Electrician and Charge Mechanic Refrigerator were in existence in H.S. Grade -1 (Rs. 380-560) as per existing recruitment Rules. Since the applicants were already holding the said posts from the year 1976 and 1977 respectively they are entitled to hold the same post, but have been denied the pay-scale of H.S. Grade-I.

4. The Chief Engineer, Headquarters Central Command vide his letter dated 28.8.1985 had directed G.E., Lucknow to hold a DPC in compliance of the aforesaid order dated 15.10.1984. The G.E. vide impugned order dated 25.6.1992 mentioned that a trade test of Refrigerator Mechanic H.S. Grade-II for promotion to H.S. Grade-I shall be held during August'92. The name of the applicants were mentioned at sl. no. C & D of this order. Thus, the G.E. (respondent no.6) has ignored the provisions of the letter dated 15.10.1984 and 29.10.1984 issued by the Chief Engineer, Headquarters, Central Command, Lucknow, because the

applicants had passed the trade test for the post of Charge Mechanic Refrigerator in the year 1976 and 1977 and were holding the post of Charge Mechanic Refrigerator which is H.S. Grade-I post in terms of the letter dated 28.8.1985 of the Chief Engineer, Headquarters, Central Command, Lucknow referred to above.

5. The claim of the applicants have, however, been denied by stating that since the applicants are holding the post of Refrigerator Mechanic and not the post of Charge Mechanic. Therefore, their posts cannot be ~~discriminated~~ ^{undetermined} as Senior Mechanic Refrigerator Grade-I.

6. We have heard the learned counsel for the parties and have perused the pleadings on record.

7. It is relevant to mention here that the respondents have not denied the claim of the applicants that they had passed the trade test in the year 1976 and 1977 respectively and were placed in the H.G.-II. The learned counsel for the applicants has also drawn our attention towards the representation dated 28.7.1992, which was addressed to Chief Engineer, Lucknow Zone, Lucknow (Annexure-6) in which it has been specifically stated by the applicants that having passed the departmental trade test of Charge Mech. Ref. during 1976 which is equivalent to R/Mech. HS-I, their names for promotion from Ref./Mech. HS-II to R/Mech. HS-I be considered without passing the trade test of R/Mech. MS-I and the departmental Trade test for Ref.Mech. HS-I should not be conducted till the decision of the representation. The learned counsel for the applicants has stated that this representation is still pending for consideration. We, therefore, dispose of this O.A. with the directions to the respondents to consider and decide the representation of the applicants dated 28.7.1992 in the light of the letter dated 28.8.1985 and the letter of ~~Ministry~~ Government of Defence dated 24.6.1987 within a period of three months from the date of communication of this order,

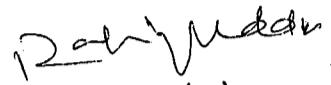
by a reasoned and speaking order.

8. The O.A. stands disposed of with the above directions with no order as to costs.


MEMBER (A)

LUCKNOW:DATED:19.2.2001.

GIRISH/-


MEMBER (J)