

(4)

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

CAMP : NAGPUR

O.A. No. 855/89  
TxXXXXXa.

198

DATE OF DECISION 26.3.1990

Central Ammunition Depot Workers Petitioners  
Union, Pulgaon and another.

Mr. A.V.Mohta

Advocate for the Petitioner(s)

Versus

Directorate General Ordnance Services, Army Head Quarters, New Delhi Respondents  
& two others.

Mr. Ramesh Darda

Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. P.S.Chaudhuri, Member (A)

The Hon'ble Mr. J.P.Sharma, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Y  
Y  
Y  
Y

(5)  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH, NEW BOMBAY

CAMP : NAGPUR

OA.NO. 855/89

Central Ammunition Depot Workers  
Union, Pulgaon and another.

... Applicants

vs.

Directorate General  
Ordnance Services,  
Army Head Quarters, New Delhi  
& two others.

... Respondents

CORAM: Hon'ble Member (A) Shri P.S.Chaudhuri  
Hon'ble Member (J) Shri J.P.Sharma

Appearances :

Mr. A.V.Mohta  
Advocate  
for the Applicants

Mr. Ramesh Darda  
Advocate  
for the Respondents

ORAL JUDGMENT

Dated: 26.3.1990

(PER: P.S.Chaudhuri, Member (A))

This application under Section 19 of the Administrative Tribunals Act was filed on 7.3.1989. The applicant is a Civilian worker at the Central Ammunition Depot, Pulgaon Camp. In the application he challenges the order dated 16.2.1989 by which respondent No. 3 is promoted to the post of Packer-Mate.

2. After going through the papers, we are satisfied that the material on record is enough for us to decide this application on merits. We accordingly admit the application and now proceed to deal with it and decide it on merits.

3. By order dated 23.2.1988 applications were invited for the said posts of Packer-Mate. By order dated 23.3.1988 (at page 14 of the application) a list of 7 candidates eligible to appear for the trade test for this post was notified. On 30.3.1988 the trade test for the post was held. Mr. Ramesh

Darda, learned advocate for the respondents, testified across the bar that only 2 candidates out of the 7 listed appeared for the said trade test. The pass marks for the trade test were 40%. Applicant No. 2 obtained 35% marks and hence was declared as not qualified. Respondent No. 3 obtained 60% marks and hence was declared as qualified. Thereafter the respondents issued the impugned order by which respondent No. 3 was promoted. Being aggrieved at this, the applicants filed the present application.

4. Respondents No. 1 & 2 have opposed the application by filing their written statement. No reply has been filed by respondent No. 3. We have also heard Mr. A.V. Mohta, learned advocate for the applicants and Mr. Ramesh Darda, learned advocate for respondents No. 1 & 2.

5. Mr. Mohta's first oral argument in support of his case was that the Board of Officers who conducted the trade test was not constituted in accordance with the instructions. He sought reliance on para 5 of Appendix 'A' to CPRD 123/77 (at page 20 of the application) reproduced below :

"In respect of DPCs for groups C & D posts, the Chairman of the DPC should be an officer of a sufficiently high level and one of the members of the DPC should be an Officer from a department not connected with the one in which promotions are considered. The other member should be an officer of the department familiar with the work of the persons whose suitability is to be assessed. The Officer of another department appointed of the level keeping in view the level of the other members of the DPC and the post to which promotion is to be made. In the case of the DPC constituted for promotions to a Technical posts it may also be ensured that the officer nominated by another department to serve on the DPC has also the requisite technical competence to advice on the suitability of the candidates under consideration.

It was Mr. Mohta's contention that this instruction meant that the Chairman of the DPC should be an officer from a department not connected with the one in which promotions are considered.

It was his submission that the Chairman of the DPC was incharge of the department in which applicant No. 2 was working. A plain reading of the paragraph makes it clear that the contention is wholly misconceived. There is no restriction on the Chairman being from the department connected with the one in which promotions are considered. What has been laid down is a requirement that one of the members of the DPC should be an officer from a department not connected with the one in which promotions are considered. Mr. Mohta fairly stated that 3 of the other members of the committee were not from the department with which the promotions were concerned. So the requirement has been met.

6. Mr. Mohta's next oral argument was that the trade test to which the applicant No. 2 was subjected was not in conformity with the instructions. It was his contention that the applicant had been tested for the post of Carpenter by having to make a wooden box. Mr. Mohta fairly stated that planks had no doubt been supplied for making the wooden box but these planks were of irregular length and width. During the course of oral arguments no case was put forward that the applicants were required to join the planks in the way in which a carpenter would make a joint. Reliance was only sought to be placed on the fact that the planks that were supplied were of irregular length and width. It is thus clear that all that the candidates had to do was to cut the planks to length and, perhaps, width and then knock them together to make a packing case or crate. This is precisely what a Joiner has to do and it is not the work of a Carpenter. Inclusion of this item in the trade test for a Packer-Mate cannot mean that the candidates were subjected to a trade test for a post of Carpenter. In any case, it was also not disputed that the other candidate was asked to do exactly the same task with exactly the same material. In these circumstances we see no merit in this submission.

7. Mr. Mohta's third oral argument was that the post was a non-selection one and hence only seniority should be the criterion. We find this submission also to be wholly misconceived. It was not disputed that the post is a non-selection one. But the mere fact that a post is a non-selection post does not mean that there cannot be any test or some other method for assessing the suitability of a candidate to fill the post. The only requirement is that the test should be in the nature of a qualifying test as distinct from a competitive test in which the candidates are adjudged and ranked in order of merit. The marks which we have quoted earlier clearly establish that of the 2 candidates who appeared only one qualified whereas the other, viz. applicant No. 2 did not qualify. There is therefore nothing wrong in holding that applicant No. 2 was not qualified for the post.

8. Mr. Mohta's final submission was that no specific standard of test has been prescribed and that the DPC has followed their own criterion. We find this submission, too, to be misconceived. By a letter dated 1.8.1957 it has been laid down that :

"It has been suggested that Trade Test standards should be prescribed for Tradesman Mates.

While the necessary for having an uniform technical standards for the promotion of labourers to Mates, is appreciated, it is considered that the Trade Test Standards prescribed for recruitment test vide EMER (1) General GN/E-290 No. 1 of 31st October, 1955, should apply to Mates also.

The minimum qualification marks in each subject will however be 30% and aggregate 40%.

The composition of Trades Testing Board will be the same as laid down in EMER (1)."

A plain reading of this letter makes it clear that there is no objection to use the trade test for Packer for assessing

the suitability of an employee for promotion to the post of Packer-Mate.

9. In this view of the matter, we are unable to find any merit whatsoever in this application.

10. We accordingly dismiss the application. In the circumstances of the case, there will be no order as to costs.

J.P. SHARMA

(J.P. SHARMA)

MEMBER (J)

P.S. CHAUDHURI

(P.S. CHAUDHURI)

MEMBER (A)

Judgement dt 26.3.90  
Served to parties on  
24.5.90

Subhash

Judgement dt 26.3.90  
Served on Application No 1  
d R. No 243 on dt.  
28.5.90  
No  
616190