

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO: 393/1996

DATE OF DECISION: 26/7/2001

I.N.Dockyard Employees Union

Applicant

Shri R.P.Saxena

-----Advocate for  
Applicant.

Versus

Union of India & Others

-----Respondents.

Shri V.S.Masurkar

Advocate for  
Respondents.

Coram:

Hon'ble Shri S.L. Jain, Member(J)

Hon'ble Smt. Shanta Shastry, Member(A)

1. To be referred to the Reporter or not? /
2. Whether it needs to be circulated to  
other Benches of the Tribunal?
3. Library. ✓

*Shanta*  
(SMT.SHANTA SHASTRY)  
MEMBER(A)

abp

**CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NO: 393/1996  
DATED THE 26<sup>th</sup> DAY OF JULY. 2001**

**CORAM : HON'BLE SHRI S.L.JAIN, MEMBER(J)  
HON'BLE SMT.SHANTA SHASTRY, MEMBER(A)**

1. I.N.Dockyard Employees Union,  
Khandelwal Bhuvan, 166, D.N.Road,  
Mumbai - 400 001.  
through its General Secretary

2. Shri P.S.Chavan, Plater,  
T.No.58901, C.No.11.,  
Naval Dockyard,  
Mumbai - 400 023.

3. Shri S.N.Shinde, Plater,  
T.No.59727, C.No.11,  
Naval Dockyard,  
Mumbai - 400 023.

... Applicant

By Advocate Shri R.P.Saxena

V/s.

1. Union of India through the  
Secretary, Ministry of Defence,  
South Block,  
New Delhi- 110 011.

2. The Admiral Superintendent,  
Naval Dockyard,  
Mumbai - 400 023.

3. The Flag Officer Commanding-in-Chief,  
Western Naval Command,  
INS Angre,  
Shahid Bhagat Singh Road,  
Mumbai - 400 023.

... Respondents

By Advocate Shri V.S.Masurkar

(ORDER)

Per Smt.Shanta Shastry, Member(A)

The applicant has filed this OA seeking the benefits as given to the Ex-Apprentices of Dockyard Apprentices School on their absorption in regular service in the Naval Dockyard, Mumbai and to grant the benefits to the Ex-NCVT Apprentices from the

date of their appointment allocating them the higher grade and granting them special increments according to the percentage of marks with retrospective effect from the date of their appointment. The prayer is also to grant arrears of wages arising from re-allocation of grade and refixation of pay to be paid to the applicants within three months of the date of judgement.

2. The application is made for maintaining parity of equation of service conditions of Apprentices of National Council for Training in Vocational Trades (NCVT) recruited through local Employment Exchange and and those from Naval Dockyard Apprentices School, Mumbai being absorbed as draftsman on completion of requisite Apprenticeship.

3. The brief background is as follows:-

Under the Apprentices Act, 1961, the Naval authorities have established the Dockyard Apprentices School, Mumbai. According to extant orders of the Government, every full time apprentice who has completed the period of training, shall appear for a test to be conducted by the Council for Training in Vocational trades, to determine the proficiency and that the Apprentices who pass the test shall be granted a certificate for this proficiency in the grade by the Council.

On successful completion of the apprenticeship the apprentices may be employed in any of the Naval repair organisation as skilled or Highly skilled grade II depending upon merit. Apprentices obtaining high position in the passing out examination conducted by the National Council for Training in Vocational Trades and showing good conduct and discipline during the entire period of training, may be granted upto two advance increments in their respective grades.

However, the selected successful apprentices, with exceptionally high grading in the examination will be appointed as Journeymen and will receive a specialised training in a particular trade for further one year and that after successful training, such apprentices will be appointed as Mechanic Highly Skilled Grade I subject to passing Trade Test conducted by the Dockyard/NCVT.

4. The above benefit of two advance increments is being given to such apprentices of the Dockyard Apprentices School after being absorbed as regular workmen on successful completion of their apprenticeship period. The applicants also have appeared and passed the test conducted by the National Council for training in vocational training. However, on being absorbed in the Naval Repair Organisation, they are not being given the incentive of two advance increments as given to the Ex Naval Dockyard School Apprentices.

5. The applicants' claim is that they should be granted the benefit as provided for under the Ministry of Defence letter dated 21/11/86 with retrospective effect from the dates of their initial appointment. According to the applicants, it is unfair and not justifiable that the orders of the Government, Ministry of Defence quoted above were to be applied only to the Ex Apprentices of the Dockyard Apprentice School and not to those who were recruited through the Employment Exchange and who have passed NCVT exam. They are in fact higher in the merit list. The National Council for Training in Vocational Trades was made the competent authority for conducting tests and for determining

of proficiency, and standards. As such Trade Test certificate issued by the Government of Maharashtra under the National Apprentices Act duly approved and awarded by the National Council for Training, Ministry of Labour, should have been honoured by the Naval authorities in the same spirit and manner as they did in respect of Ex-apprentices of Dockyard Apprentices Schools which are established at Mumbai, Vishakapatnam and Cochin under the Apprentices Act 1961. The Authorities should have treated the Ex NCVT Apprentices on par with those of the Dockyard Apprentices School regarding allocation of higher grade and increments at the time of their appointment in the Naval Dockyard at Mumbai. The treatment given is discriminatory and is violative of Article 14 of the Constitution of India which guarantees equality before the law. The applicants further contend that equal pay for equal work has been recognised by Hon'ble Supreme Court in various cases such as

1. Randhir Singh                      V/s. Union of India AIR 1982 SC 490
2. D.S.Nakara                        V/s. Union of India 1983 SCC CL (S)145
3. P.Savita                            V/s. Union of India AIR 1985 SC 1124
4. Surender Singh                   V/s. Union of India AIR 1986 SC 584
5. Dharendra Chawala               V/s. State of U.P. AIR 1986 SC 172
6. Jaipal                               V/s. State of Haryana 1983(3)SCC 354
7. Central Bank of India V/s. Rajagopalan      AIR 1964 SC 743

The applicants submit that it is difficult to accept the discrimination meted out to them as both the apprentices have passed the NCVT tests which is common to all irrespective of their source of their recruitment. Their service conditions are also same. Therefore, they are entitled for the benefit of two advance increments.

6. The respondents however have opposed the same and have raised preliminary plea that the application was filed without waiting for reply to the representation made by the Union of 8/12/96, as such it is premature. Infact, the application was filed after rejection of the demand for parity in the meeting of the Steering Committee of JCM IIIrd Level held at Mumbai. The applicants are relying upon the decision of Ministry of Defence dated 14/1/85 whereas the representation dated 8/12/95 is addressed to the Admiral Superintendent. Thus the demand has not been placed before Competent Authority before approaching the Tribunal. Further, joint application by 168 persons without making individual representation and without making out a case of discrimination or otherwise before Competent Authority is not maintainable in law. The respondents also contend that the applicants have been appointed on different dates and therefore their cause of action of 1972 will be outside the jurisdiction of this Tribunal. The reliefs to be granted to the applicant will also not be common since applicants are not only appointed on different dates but were appointed in different trades also.

7. Coming to the merits of the case, the respondents submit that the source of recruitment of the applicants and those of the Ex.Dockyard Apprentices School employees is different. The apprentices are recruited through Dockyard Apprentices School after rigorous training under closed supervision, monitoring of performance and conduct on periodical basis are considered for grant of one or two advance increments depending upon their overall performance. These advance increments are given only on initial appointment based on the instructions issued under MOD Corrigendum dated 5/11/71.

8. The basic difference in the tradesman coming through the Dockyard Apprentices School and those coming through the Employment Exchange directly has been highlighted by the respondents. Apprentices of the Dockyard Apprentices School are appointed as Departmental Candidates. The basic minimum qualification for engagement is 10th Standard pass with 50% marks on All India Basis. They are recruited on successful completion of Apprenticeship from the Dockyard Apprentices School with a sequel to recruitment on All India Basis with full protection. They are subjected to rigorous training for two years in the trade subject as well as in NCC, Sports, attending camps and their performance is watched on six monthly basis. They are also subjected to strict discipline during their Apprenticeship. The Apprentices appointed through local Employment Exchange need only 8th standard pass with ITI/NCVT certificate. They are appointed through the Employment Exchange. The performance of these persons is decided based on the annual examination. There is no such binding on these Apprentices had attended NCC Training, Sports, Camps, etc. After the appointment, all are governed by the same service conditions except for at the immediate appointment the candidates absorbed from Dockyard Apprentice School are given two advance increment. The Government of India's orders dated 5/11/71 issued by Ministry of Defence are meant only for Dockyard Apprentices School. They are not to be given to the others coming through direct recruitment. The apprentices of Dockyard Apprentices School are being trained as per the rules and regulations adopted by Naval Authorities based on Government orders. The School is functioning direct under the control of Naval Headquarters. The syllabus, training,

practicals are also being conducted to meet the requirement of Naval Establishment/ships in a different way other than NCVT. The proficiency standards are also very high as compared to NCVT and there is no direct connection with syllabus or standard with NCVT. However, these apprentices do appear for final examination of NCVT as it is essential and obligatory to have a certificate of NCVT as laid down in Apprentice Act 1961 of the Dockyard Apprentices School and thus coming through direct recruitment are selected and recruited. There is no comparison. There is no discrimination.

9. The applicants again tried to argue that persons holding identical posts cannot be treated differently in the matter of pay merely because they belong to different institution of Apprentice Act. It is purely discriminatory to distinguish between similarly situated tradesman doing similar work.

10. We have given careful consideration to the arguments advanced by the learned counsel for the applicant as well as respondents. The demand of the applicants is to grant them also advance increments as given to the Apprentices appointed departmentally from the Dockyard Apprentice School. As already pointed out by the respondents, the applicants and the ex apprentices of Dockyard Apprentice School are recruited through two different methods. They are not recruited through the same source. If the respondents have given some weightage to the apprentices coming through the Dockyard Apprentice School, they are justified in that those apprentices are specifically trained for working in Naval Establishments. This is only at the stage of initial appointment otherwise the other service conditions, etc are same for all whether they come through the Dockyard





Apprentice School or through the Employment Exchange.

11. In our considered view, the respondents cannot be faulted for not granting the benefit to the apprentices coming through Employment Exchange. However, the applicants as already pointed out have joined the services of the respondents on different dates starting from 1972 onwards till 1989.

12. In the facts and circumstances of the case, we do not hold the applicants entitled to the same benefits of two advance increments as are given to the Ex Apprentices of Dockyard Apprentice School on their absorption in regular service in the Naval Dockyard. Accordingly, the OA is dismissed. We do not order any costs.

*Shanta f-*

(SHANTA SHASTRY)  
MEMBER(A)

*S.L. Jain -*

(S.L. JAIN)  
MEMBER(J)

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