

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 553 of 2000.

Dated this Thursday the 8th day of March, 2001.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

1. C. P. Pathan,
President of All India
Military Engineering Service,
12/14, Rajgir Chambers,
Room No. 60, 7th Floor,
Shahid Bhagatsingh Marg,
Opp: Old Custom House,
Bombay - 400 023.
2. Om Bahadur Malla,
G-Naval Works, Homi Baba Road,
Colaba Navy Nagar,
Mumbai - 400 005.

... Applicants

(By Advocate Shri Suresh Kumar)

VERSUS

1. Union of India through
The Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. Addl. Dtg. General of
LWE/Q3 (B-1)
Quartermaster General Branch
Army Headquarters DHQ P.O.,
New Delhi - 110 011.
3. Commander Works Engineer,
Naval Works, Dr. Homi Baba Road,
Navy Nagar, Colaba,
Mumbai - 400 005.
4. Officer-In-Charge,
Headquarters, Chief Engineer,
Navy, 26 Assaye Building,
Colaba, Mumbai - 400 005.

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5. Presiding Officer of the Board
Constituted for Quantifying
Key Personnel, Shr Cdr. S.
Ganguly, Project Officer,
Naval Area Colaba, Navy Nagar,
Colaba, Mumbai - 400 005.

... Respondents.

(By Advocate Shri R. K. Shetty).

O R D E R

PER : Shri B. N. Bahadur, Member (A).

This is an application made by two Applicants, the first of them an Association representing M.E.S. Lift Operators, apart from other categories. The second Applicant states that he is a Lift Operator. The Applicants come up to the Tribunal in grievance against the Respondents from the latter not complying with instructions in letters dated 15.12.1998 and 23.02.1999 (Exhibit A-1 and A-2).

2. The Applicants state that Applicant No. 2 had filed O.A. No. 693/99 before this Tribunal, and that he had sought the inclusion of his name for allotment of Type-II quarters in the Key Personnel Roster. The Applicant further goes on to state that while recommending employees as Key Personnel, the Board constituted for this purpose had violated letter dated 15.12.1998, which, in fact, is the letter containing instructions and policy guidelines and is titled 'Accommodation Policy - M.E.S.'

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Key Personnel'. Giving further details, the Applicants state that the number of categories identified as Key Personnel has been increased to thirty, as against twenty-one, envisaged in the policy. The Western Naval Command, (Headquarter), had returned the recommendation vide letter dated 21.03.2000 (Exhibit A-5) with instructions to follow guidelines and revise the list.

3. The Applicant then goes on to expound his reasons for holding how the recommendations are wrong. He seeks the relief from this Tribunal for the quashing and setting aside of the recommendation made (copy annexed at A-3) and prays that this Tribunal should hold the action of the Respondents as illegal and direct them to modify the recommendation limiting it to 15% of entitled strength and to twenty one categories, as prescribed.

4. The Respondents have filed a Written Statement in reply, first, making the averments that neither of the two Applicants have any locus-standi regarding the reliefs sought. The locus-standi of Applicant No. 1 is also questioned, as it is contended that they have no proper authority, either, from their constituents. This point has later been taken up in a M.P. also, M.P. dated 20.11.2000. It is further alleged that the

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matter being questioned is a matter of policy, and no statutory right devolves on the Applicants, which would entitle them to come up to this Tribunal. The ground of res judicata has also been taken in view of the disposal of the application 693/1999 referred to above.

5. Respondents further resist the claim of Applicants on merits. The Board constituted to recommend employees as Key Personnel, had not violated the letter dated 15.12.1998, and that the effective numerical strength of the list was in fact kept to twenty-two. Appendix 'A' is referred to and the figure of 30 is explained graphically in statement form (Page 50 of the Paper Book), the main point being that certain categories have been split up and hence the number appears exaggerated, as indicated in para 11 of Written Statement. Further details about the function of the various categories of employees have been detailed out ahead in the Written Statement.

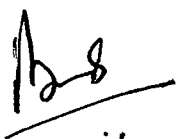
6. I have heard the Learned Counsel on both sides, viz.
- Shri Suresh Kumar for the applicants and Shri R. K. Shetty for the Respondents. Learned Counsel for the Applicants drew our attention to the details of the documents annexed at A-1 and A-2, i.e., the policy for determination of M.E.S. Key Personnel and the details thereof circulated by these two letters. The point

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about the need for restriction of categories to the minimum and not exceeding twenty one, was made very strenuously by the Learned Counsel, who alleged that while the number of categories should have been twenty one, as listed in page 19, their list goes to thirty, as can be seen from Appendix to the proceedings of the Board at pages 22 and 23. Shri Suresh Kumar also made the point that the identification of categories was not done in a balanced manner vis-a-vis different categories of Key Personnel and the percentage was skewed. He made the point that approval had not been granted and the Headquarters had asked for a review, as can be seen at page 42 (exhibit A-5).

7. Arguing the case on behalf of Respondents, Shri Shetty first explained that the number of thirty came only because of double counting in view of certain categories being split. He explained this in detail, by taking the assistance of the Written Statement and the statements referred to above. He drew our attention to page 42 of the Paper Book and stated that justification has been provided for operating the number more than 15% and that such justification is contained in the exhibit R-1 to the Written Statement category wise. Shri Shetty reiterated the point about the matter being a policy matter, concerned with day to day running of administration and also alluded to related arguments taken, in detail, in the Written Statement.



8. I have considered the arguments made by the Learned Counsel on both sides, and have perused the papers in the case. The first point that needs to be taken up is, whether there is any gross violation of the instructions issued in regard to keeping of the categories at 21. I have carefully compared the list at page 19 with the statement starting at page 22, the first being the recommendations by the E-in-C's Branch and the second being a quantification statement by the Board. It is clear from a careful consideration of the lists that categories have been expanded, thereby showing an apparently high number. In essence, there is no increase to give but one example, the category at sl. no. 13 of the first statement is Fitter Pipe (H.S.-I, HS-II and SK). The same one entry has been listed as three by the Board at Sl. No. 16, 17, and 18. This has happened elsewhere also. In any case, there being no gross violation. The Tribunal would not further go in to check whether the list is 21 only, or consider that even exceeding it by one could give any legal rights for the reliefs sought.

9. I would agree with the basic point made by the Respondents that what is questioned before the Tribunal are matters relating to modalities of administration and I would not like to go into these, as if an Appellate Authority. Suffice it would to examine whether any gross injustice or arbitrariness is

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evident in the process of identification of Key Personnel vis-a-vis the policy laid down.

10. The same ^{ratio} would apply to the point that there has been correspondence from the Western Naval Headquarters about the need to revise the list. This is an internal matter of detail, and should any differences exist, it will also be a matter which will have to be sorted out by the Respondents themselves internally. In any case, I find that the Union of India through the Secretary of Ministry of Defence, is also a Respondent, and since he clearly supervises all the other four Respondents, there could be no difficulty in the matter, should a need be felt by Respondents.

11. Learned Counsel for the Applicants had also argued to allege that the percentages of personnel identified Key Personnel was skewed, interse, and not balanced. This is not a matter that the Tribunal can go into. These are details of policy and are best left to the judgement of the Respondents to settle. Thus, no rights accrue to the Applicants in a manner that would need judicial intervention, given the facts and circumstances obtaining.

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12. In view of the discussions above, I am not convinced that any case has been made out for intervention by the Tribunal in this matter. This O.A. is therefore dismissed, with no orders as to cost.

B. N. Bahadur

(B. N. BAHADUR)
MEMBER (A).

08/03/01

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