

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 435/93.

Date of Decision: 30.9.97.

M.E.S. Employees Union & 13 Others, Applicant.

Shri V. M. Bendre, Advocate for  
Applicant.

Versus

UNION OF INDIA & OTHERS. Respondent(s)

Shri R. K. Shetty, Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. B. S. Hegde, Member (J).

Hon'ble Shri. M.R. Kolhatkar, Member (A).

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to  other Benches of the Tribunal?

  
(B. S. HEGDE)  
MEMBER (J).

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 435/93.

M.P. No.: 538/95 and 46/96.

Dated this 30th, the Friday day of September, 1997.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).

HON'BLE SHRI M. R. KOLHATKAR, MEMBER (A).

M.E.S. Employees Union,  
Bombay,  
Reg. No. 598, Recg. by the Govt.  
Of India and affiliated to AIDEF,  
through S. B. Bansode,  
Secretary,  
Mankhurd Branch,  
S.P.D. Colony P/32/3,  
Mankhurd, Bombay - 88.

2. Shri N.V. Mhatre,  
M.E.S. No. 10371,  
Refg. Mech., Highly Skilled-I,  
S.M.S. Qtr., MES QTR. WT,  
Mahul, Bombay.
3. Shri A.S. Azvede,  
M.E.S. No. 104489, H.S.-I,  
Refg. Mechanic, Mankhurd,  
Bombay - 88.
4. P. Sukumaran Nair,  
H.S.-II, M.E.S. No. 104485,  
Refg. Mech. WT, Mahul,  
Bombay - 73.
5. Shri Piety D'Cruz,  
M.E.S. No. 104486,  
Refg. Mech., WT, Mahul.
6. Shri N. Bhalram,  
Reg. Mech., MES No. 188051,  
HS-II, WT, Mahul,  
Bombay.
7. Shri Chandrashekhar Nair,  
Refg. Mech., HS-II,  
M.E.S. No. 188284, Bombay.

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8. Shri Dilip S. Patil,  
Pipe Fitter,  
M.E.S. No. 188360,  
Garrison Engineer,  
Bhandup, Bombay.
9. Shri D.K. Thorat,  
Pipe Fitter,  
M.E.S. No. 104111,  
Mankhurd, Bombay.
10. Shri Manohar Trimukhe,  
Pipe Fitter,  
M.E.S. No. 188303,  
Mankhurd, Bombay.
11. Shri V.S. Shejawalkar,  
Painter Polisher,  
M.E.S. No. 103959,  
Mankhurd, Bombay.
12. Shri Nivrutti Mohan Salvi,  
M.E.S. No. 104504,  
Painter Polisher,  
Mankhurd, Bombay.
13. Shri Dhansing Premsing,  
M.E.S. No. 104931, DES  
Mankhurd,  
Bombay.

(By Advocate Shri V.M. Bendre)

... Applicants

1. Union Of India,  
through Engineer-in-Chief,  
Army Headquarter, Defence  
Headquarters Post,  
New Delhi - 110 011.
2. Chief Engineer,  
Southern Command,  
Kirkee, Pune - 411 001.
3. Chief Engineer, Bombay Zone,  
through Commander Works  
Engineer, Naval Works  
(Subbers), Bhandup,  
Bombay - 400 078.

... Respondents.

(By Advocate Shri R.K. Shetty)

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O R D E R  
[ PER.: SHRI B. S. HEGDE, MEMBER (J) ]

The only prayer made in this O.A. is to give direction to the respondents to implement the scheme of three grade structure introduced by the department. The applicants are workers in M.E.S. The application is not preferred against any order of the respondents but on account of inaction on the part of the respondents in implementing the order dated 06.04.1986.

2. The contention of the applicants is, that the matter has been taken up in JCM meetings and it was decided in the year 1991 to review the matter, however, no action is taken by the respondents, therefore, the applicants were perforced to file this petition before the Tribunal.

3. The respondents in their reply have contended that the application preferred by the applicants raises an omnibus dispute about the alleged improper implementation of the Three Grade Structure recommended by the Anomalies Committee pursuant to the recommendations of the Third Central Pay Commission. As a matter of fact, they have totally and faithfully complied with the recommendations of the said Anomalies Committee. The respondents further contend that the M.E.S. Employees Association has no locus standi to file the present application as the Association has not filed the data in respect of each

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aggrieved applicant. The claims of the association are vague, indefinite, suffer from laches and are barred by limitation. The circular pertaining to the 3 Grade Structure of skilled workmen is dated 15.10.1984 whereas the present application is dated 21.04.1993, which is filed after a lapse of 8½ years from the date of accrual of the cause of action, and hence the application is grossly barred by limitation. The respondents further contend that the present claim is worse than multiple and plural demands which are barred under Rule 10 of the Central Administrative Tribunal Rules. The bench mark percentage prescribed by the Government of India is as under :-

- i) 65% categorised as skilled.
- ii) 20% categorised as Highly Skilled Grade-II subject to passing relevant trade test.
- iii) 15% categorised as Highly Skilled Grade-I subject to being categorised as H.S. Grade-II for 3 years and upon passing of the relevant trade test thereafter.

4. The respondents also submit that as a one time measure the requirement of having to pass the trade test was relaxed for being categorised as High Skilled Grade-II. This categorisation was actually implemented on 10.12.1986 but with effect from 15.10.1984. Further, it is contended that the Applicant No. 1, Shri Sudam B. <sup>who</sup> Bansode, /signed the present application on behalf of MES Employees Union, Bombay, is not empowered to do so, as he is not the General Secretary or the President/ Chairman. He is only holding the position of Branch Secretary of a particular division. The other 14 applicants

have not made any representation to the competent authority if aggrieved by the implementation of three grade structure. The applicants should have made a representation to the competent authority in terms of Section 20 of the Administrative Tribunals Act, 1985. Further, it is contended by the respondents that all these applicants are already enjoying the fruits of implementation of the three grade structure from the dates of their eligibility. This fact is quite evident from the application, wherein they have clearly signed either as HSG-I or HSG-II and therefore, the contentions of the applicants regarding improper implementation is absolutely baseless, vague and totally unjustified without proper application of mind.

5. The respondents further contend that the applicants have not brought out specific instances of improper implementation. They have not even exhausted the departmental remedies and therefore, this application is required to be dismissed in limini. Further, it is submitted that the applicants are trying to convert the Central Administrative Tribunal into a Personnel Department of the respondents and seek to solve the day to day personnel grievance of a mass employees through the medium of M.E.S. Employees Association. The respondents submit that the Bangalore Bench of this Tribunal has already ruled recently that the applicants cannot be permitted to convert the Central Administrative

into a personnel Department of the Central Government. From the perusal of the O.A. it is very clear that the demands of the applicants are too vague, unintelligible and barred by limitation.

6. The respondents further reiterate that the Three Grade Structure was implemented in its spirit duly giving benefit w.e.f. 15.10.1984 to the eligible candidate as per the seniority. The anomalies as brought out by the Board of Officers were accepted in toto and implemented, thereby, the anomalies were removed. No where it is mentioned in the petition that the individuals suffered any financial loss. The review D.P.C. conducted was based on the suggestion as brought out in JCM Meeting. The anomalies noticed have also been implemented subsequently. Therefore, the contention that the three grade structure has not been implemented by the respondents is totally baseless. The applicant No. 1 is only a Branch Secretary and not a General Secretary or Area Union of M.E.S Employees Union. No letter of authority was given to the Applicant No. 1 by the General Secretary for signing on behalf of the Area Union of M.E.S. Employees Union. As a matter of fact, the General Manager vide his letter dated 26.09.1993 has expelled the said applicant from the Union and has intimated the department that no correspondence should be entertained and no interview should be granted to the said applicant henceforth.

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Instead, the General Secretary has authorised ~~Shri~~ Shri J. H. Liman, to deal with any disputes or problems arising out of Three Grade Structure.

7. Heard Shri V.M. Bendre for the applicant and Shri R.K. Shetty for the respondents and perused the pleadings. The short question for consideration is whether the applicants have made out any *prima-facie* case for our interference in giving direction to the respondents. It is true that they have not made any representation to the competent authority pursuant to the implementation of the three grade structure scheme introduced by the department. In terms of Section 20 of the Administrative Tribunals Act, 1985, if the applicants are aggrieved by the orders of the respondents, they are at liberty to make appropriate representation to the Competent Authority and if they do not receive proper response from the respondents, after a lapse of certain period, they are at liberty to file an application before the Tribunal. The respondents have candidly stated that no such representations are made by the present applicants nor any application is pending before them, thereby, unless they exhaust the departmental remedies, their application filed before the Tribunal is pre-mature and that too without making any *prima-facie* case for our interference. Secondly, the cause of action arose in 1982 and the O.A. is filed in the year 1993, after a lapse of  $8\frac{1}{2}$  years. No reasons are explained

in the petition for filing this application so belatedly. The grounds urged in this O.A. are vague, indefinite and suffer from laches. Therefore, in our view, the application deserves to be dismissed on the ground of limitation. Nevertheless, we are not inclined to dispose of the O.A. only on the point of limitation but on merits also, the applicants have not made out any case for our interference. Thirdly, the application filed by the applicants is not maintainable because the applicant No. 1 has not been authorised by the other applicants to act on their behalf. Rule 5 of the Administrative Tribunals Act, 1985, reads as follows :-

"(5)(a) Notwithstanding anything contained in sub-rules (1) to (3), the Tribunal may permit more than one person to join together and file a single application if it is satisfied, having regard to the cause of action and the nature of relief prayed for, that they have a common interest in the matter.

(b) Such permission may also be granted to an association representing the persons desirous of joining in a single application provided, however, that the application shall disclose the class/grade/categories of persons on whose behalf it has been filed (Provided that atleast one affected person joins such an application.)"

8. In the light of the above, <sup>in our opinion that</sup> ~~the~~ applicant No.1 has not been authorised by the association to represent other members of the union. The question of his representing the employees of the respondents is not in accordance with the rules and the same is required to be

dismissed. The department has taken a specific plea in their reply that the applicant No. 1 does not have any right to represent the MES Union in view of the fact that the applicant no. 1's post i.e. Diesel Engine Static has not been included in the three grade structure and therefore, he cannot agitate before this Tribunal on the point of implementation of the three grade structure. So far as the other applicants are concerned, all of them are enjoying the fruits of implementation of the three grade structure from the dates of their eligibility and therefore, they do not have any locus standi to file this petition. The applicants have also not brought out specific instances of improper implementation.

9. In the result, we do not see any merit in the application and the same is dismissed both on merits and on the point of limitation. In the first instance we thought of imposing cost on the applicants because in our opinion it is nothing but frivolous litigation without complying with the due process of law. However, in the facts and circumstances of the case, we do not intend to impose any cost. The O.A. does not merit our interference. Accordingly, the O.A. is dismissed with no orders as to costs.

*M.R. Kolhatkar*  

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(M.R. KOLHATKAR)

MEMBER (A).

*B. S. Hegde*  
(B. S. HEGDE)

MEMBER (J).