

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 761/93.

Date of Decision: 11.11.1997

Shri Suresh M.Valecha & Ors.

Applicant.

Shri B.Dattamoorthy.

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Shri R.R.Shetty.

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice-Chairman,

Hon'ble Shri. P.P.Srivastava, Member(A).

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

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

R.G.Vaidyanatha
(R.G.VAIDYANATHA)
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 761/1993.

Tuesday, this the 11th day of November, 1997.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
Hon'ble Shri P.P.Srivastava, Member(A).

1. Shri Suresh M Valecha, Age 26 years

S/O Shri Murlidhar L Valecha
Supdt B/R Grade II in the Office of the
Garrison Engineer (NW) Kunjali,
Colaba, Bombay - 400005.

2. Shri PP Baiju, Age 30 years

S/O Shri Augusthy Pylee
Supdt B/R Grade II in the Office of the
Garrison Engineer (NW) Bhandup,
Pawai, Bombay - 400 078

3. Shri Shagir Ahmad, Age 31 years

S/O Shri Nazir Ahmad
Supdt B/R Grade II in the Office of the
Garrison Engineer (P) (NW)
Colaba, Bombay - 400 005

4. Shri VK Sharma, Age 32 years

S/O Shri Sewa Ram Sharma
Supdt E/M Grade II in the office of
The Garrison Engineer (West)
Colaba, Bombay - 400 005

5. Shri PA Mahajan, Age 30 years

S/O Shri AL Mahajan
Supdt E/M Grade II in the office of the
Garrison Engineer (NW) Bhandup, Bombay-400078

6. Shri Ramphal, Age 36 years
S/O Shri Jagai
Supdt E/M Grade II in the Office of
The Garrison Engineer (NW) Kunjali
Navy Nagar, Colaba, Bombay - 400 005

(By Advocate Shri B.Dattamoorthy)

.....Applicants

Vs

1. Union of India
Through Secretary
Ministry of Defence, South Block,
NEW DELHI - 110011
2. Engineer-in-Chief
Military Engineer Services
Kashmir House
New Delhi - 110011
3. Chief Engineer
Southern Command
Military Engineer Services
Pune - 1
4. Chief Engineer Central Command
Military Engineer Services
Lucknow (UP)
5. Chief Engineer Eastern Command
Military Engineer Services
Calcutta, (West Bengal)
6. Chief Engineer Western Command
Military Engineer Services
Chandimandir (Haryana)

7. Chief Engineer Northern Command
Military Engineer Services
Udhampur (J & K)
8. Commandant
Bengal Engineer Group
Roorkee (UP)
9. Chief Engineer Navy, 26 Assaye Bldg,
Colaba, Bombay - 400 005
10. Chief Engineer Pune Zone
Pune - 1
11. Commander Works Engineer (NW)
Navy Nagar, Colaba, Bombay - 400005
12. Commander Works Engineer (Subs)
Bhandup, Bombay - 400 078
13. Commander Works Engineer (Army)
Colaba, Bombay - 400 005
14. JC-153715 Sub/B/R Grade I
Hira Ballabh
GE (P) Meerut
15. JC-61123H Sub Maj B/R Grade I
Major Singh
GE (P) Jodhpur
16. JC-99457P Sub B/R Gde I
Santiago Louis
371 RM Pl (GREF)
17. JC-54367N Sub Maj B/R Grade I
Prabhakar Bardale
GE Dehu Road

18. JC-121246F Sub B/R Grade I
Sulkhan Singh
GE (P) No 1 Bhantinda

19. JC-125013X Sub B/R Grade I
Rami Chand
GE Navy Jamnagar

20. JC-13581 Sub B/R Grade I
Swarn Singh
CWE Chandigarh

21. JC-42599W Sub B/R Grade I
Vithalrao Basavanappa
AWHO Bangalore

22. JC-123650P Sub B/R Grade I
Keshar Singh
GE (P) Meerut

23. JC-123633P Sub B/R Grade I
Thakur Singh Chauhan
CWE Dehradun

24. JC-165361W Sub B/R Grade I
Nand Ram Bhatt
GE MES Bareilly

25. JC-76360W Sub Maj B/R Grade I
Vijay Desh Pandey
GE SC Pune

26. JC-95493L Sub B/R Grade I
Narender Kumar Yadav
GE (S) AF Palam

27. JC-95486 Y Sub B/R Grade I
Harnail Singh Sandhu
GE (P) Gurdaspur

28. JC-49241K Sub B/R Grade I
SS Sidhu
GE (AF) Jodhpur

29. JC-142481A Sub B/R Grade I
Hardarshan Singh Aojal
GE (West) Jallandhar

30. JC-177225X Nb Sub B/R Grade II
JP Singh, GE West Allahabad

31. JC-61124L Sub Maj B/R Grade I
Rajendra Prasad Duggal
GE (CT) Dehradun

32. JC-122926N Sub B/R Grade I
Vijay Bahadur Singh
STE EC Patna

33. JC-153708W Sub B/R Grade I
Gurnam Singh
CWE (P) Patiala

34. JC-140838A Sub E/M Gde I
P Padmanabhan
GE (NW) Vasco

35. JC-140840X Sub E/M Grade I
EPP Abraham
GE (ND) Visakhapatnam

36. JC-140882K Sub E/M Grade I
A Vijayan
GE (ND) Visakhapatnam

RRW

37. JC.53755W Sub E/M Grade I

Dev Datta

114 Armd Engr Regt

38. JC-92709A Sub E/M Grade I

Grudev Singh

HQ 134 Wks Engrs

39. JC-140842H Sub E/M Grade I

Kakde Narayan

GE (AF) Nagpur

40. JC-99486W Sub E/M Grade I

Sukhdev Singh

GE (M) Ambala

41. JC-128767X Sub E/M Grade I

Arjun Kumar

GE Udhampur

42. JC-140895P Sub E/M Grade I

JB Krishna Murthy

CWE (P) Mhow

43. JC-140881F Sub E/M Grade I

Yexma Dutt

GE (P) No 6 RR Hospital

44. JC-65611H Sub Maj E/M Grade I

JL Sharma

GE 867 EWS

45. JC-140883M Sub E/M Grade I

Bakshish Singh

GE (P) Udhampur

46. JC-140839H Nb Sub E/M Grade II

A Gurumurthi

GE E/M Visakhapatnam

fw

47. JC-126293H Sub E/M Grade I

A Sreedharan

DGNP Visakhapatnam

48. JC-126129A Sub E/M Grade I

P Gopalakrishnan

GE (P) Wellington

49. JC-126126M Sub E/M Grade I

Rajit Singh

GE 860 EWS

50. JC-179824W Sub E/M Grade I

CD Rajan

GE E/M (P) No 1

NAS Arkonam

51. JC.126299K Sub E/M Gde I

Nanak Chand

GE (EP) Suratgarh

52. 1451208H Nk E/M Grade II

PN Raman Kutty

CWE Shillong

(By Advocate Shri R.R.Shetty). Respondents

O R D E R

(Per Shri R.G.Vaidyanatha, Vice-Chairman)

This is an application filed under section 19 of the Administrative Tribunals Act, 1985. The respondents have filed their reply. Heard both sides.



2. The applicants who are working as Superintendents in the Office of the Garrison Engineer at Bombay have filed this petition seeking cadre review to create more opportunities for promotion and also challenging the policy of the Respondents in recruiting Ex-serviceman in the Garrison Engineer's Office. As to be seen from the allegations ^{of} the application, the main grievance of the applicants is that the respondents are recruiting 40% of the cadre from Ex-servicemen. If the Ex-Servicemen get their past service for the purposes of seniority, then ^{it will} ~~it~~ come in the way of the applicants not getting their promotions. Therefore, they want that this policy of recruiting 40% from Ex-servicemen should be scrapped or modified. The other grievance of the applicants is that in the present cadre structure there is no effective scope for promotion and many officers are continuing in the same office ^{now} without promotional avenues; therefore, the applicants want a direction to the Government to re-structure the cadre strength and provide better promotional avenues for the applicants and other officials of the department.

3. The respondents have filed a reply. They have taken the stand that the cadre structure is a policy matter for the Government to decide and this Court has no jurisdiction to interfere with the policy decision of the Government. Even otherwise, it is stated that in 1988

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itself the Government has introduced revision in the cadre structure to provide for promotional avenues. As far as the seniority problem of Ex-servicemen is concerned, it is stated that the Ex-servicemen will not be entitled to count their previous service for the purposes of seniority and they are entitled to claim seniority only from the date they join the office of the Garrison Engineer.

4. At the time of hearing the learned counsel for the applicants highlighted the two grievances which are mentioned above.

As already stated, the main grievance of the applicants is about the Ex-servicemen who are recruited claiming seniority on the basis of their past service. In our view, this grievance of the applicants is imaginary since the Government has clarified the position that Ex-servicemen are not entitled to claim their past service for the purposes of seniority. In the written statement filed by the respondents, they have clarified the position as follows :

"(a) The re-employed JCOs (ex-servicemen) will be junior most having fresh start of service from the date of re-employment.

(b) Further promotion of these re-employed ex-servicemen, it is submitted that they will be entitled for promotions as per seniority and merit as laid down in the recruitment rules.

(c) The re-employed ex-servicemen are not being given the benefit of past service in fixing their seniority in civil posts.

(d) The re-employed ex-servicemen will not supersede their civilian counterparts with over-riding seniority benefits.

Thus deputation-cum-re-employment of ex-servicemen in MES will in no way affect the promotional prospects of their civilian counterparts."

It is therefore seen that from the clarification made by the respondents, the Ex-servicemen are entitled to claim seniority only after they join duties in the o/o. Garrison Engineer and they cannot claim their past service for the purposes of seniority. Therefore, the main grievance of the applicants no longer survives in view of the clarifications made by the respondents in the written statement as mentioned above.

5. The only other grievance of the applicants is about re-structure of the cadre for creating more promotional avenue. In para 8 ^{of Reply} it has been stated that the Government of India have carried out cadre review to increase the promotional avenues and issued necessary orders on 21.10.1988 and the decision taken therein has been implemented. The learned counsel for the applicants was not able to tell us, for want of instructions, whether such a direction has been issued by the Government. Any how, we do not have the order dt. 21.10.1988 before this Tribunal. The fact that the Government has made a categorical statement in the written statement that they have made cadre review as per order dt. 21.10.1988, we may take it that such an order was issued. It is open to the applicants to take advantage of the said order.

6. Even otherwise, the scope of the interference by Tribunal in a matter like cadre-restructuring or review of cadre is a limited one. It is a policy matter for the Government to review the cadre ^{structure} in a particular manner. As rightly argued on behalf of the respondents, the Tribunal or Court cannot interfere in the policy matters as observed by the Supreme Court in the case of Indian Railway Service of Mechanical Engineers Assn & Ors. v/s. Union of India (reported in 1993(2) LLJ p. 539). The applicants have been making representations to the Government for review of cadre restructure to provide for better promotional avenues. It is for the government in the best interest of the organisation to take appropriate decision according to law. We only wish that the Government will pass appropriate orders on merits about restructuring of the cadre. It is not a matter for which the Tribunal can give any guidelines or directions. We leave the matter to the Government to take appropriate decision in the matter.

7. In the result, the application is disposed of subject to the observations mentioned above. No costs.



(P.P. SRIVASTAVA)
MEMBER (A)

B.



(R.G. VAIDYANATHA)
VICE- CHAIRMAN