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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A.Nos. 573/87 & 612/87.

Date of the order: 4-6-1990.

O.A. 573/87

Between:

1. K.V.Parvatha Rao
2. S.K.Muniuddin
3. S.R.Das
4. M.Sankara Rao
5. K.Gopala Rao
6. J.V.A.Rama Rao
7. B.K.Mujendar
8. Abdul Khadim
9. S.Elango
10. V.B.Panigarhi

... APPLICANTS

AND

1. The Admiral Superintendent,  
Naval Dockyard, Visakhapatnam. A.P.

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|----------------------------|------------------------------|
| 2. D.B.V.Ramakrishnam Raju | 37. A.Mavullu                |
| 3. S.V.V.Subba Raju        | 38. K.Sreeramulu             |
| 4. D.V.S.Budha Prasad      | 39. P.Apparao                |
| 5. Nakka Venkataramana     | 40. T.Subbarao               |
| 6. K.Krishna Murthy        | 41. P.Ramaraju               |
| 7. V.Suryaprakasarao       | 42. Y.Sanyasi Rao            |
| 8. G.Santhiraju            | 43. K.Kotayya                |
| 9. K.Suryanarayana         | 44. K.Appalakrishna Rao      |
| 10. B.Narasimha Rao        | 45. K.Satyanarayanamurthy    |
| 11. J.Jogarao              | 46. P.Satavahanarao          |
| 12. K.Sreerama Murthy      | 47. D.Appalanarasimha Raju   |
| 13. P.Appalaramu           | 48. G.Krishnarao             |
| 14. S.Samson Raju          | 49. P.Apparao                |
| 15. M.Venkata Apparao      | 50. Ratnakumar               |
| 16. C.Rajarao              | 51. N.Ramaraju               |
| 17. Shaik Apparao          | 52. N.Atchaimunaidu          |
| 18. A.Jesu Das             | 53. M.Dakshinamurthy         |
| 19. P.Sriranganayakulu     | 54. S.Satyanarayana          |
| 20. B.Sivaramakrishna      | 55. K.Sanjeevi               |
| 21. K.Sreeramulu Naidu     | 56. V.Venkataraju            |
| 22. C.Satyanarayana        | 57. V.B.V.Satyanarayanaraju  |
| 23. R.Ramesh Babu          | 58. S.Sanyasi Vijayaramaraju |
| 24. K.Krupanandarao        | 59. L.Apparao                |
| 25. P.Venkanna             | 60. V.Suryaprasad            |
| 26. N.Ramakrishna          | 61. G.Prabhakarareddi        |
| 27. R.Venkatagopalamurthy  | 62. N.Gopichand              |
| 28. A.Venkataramanmurthy   | 63. P.Venkatarao             |
| 29. A.Visweswara Rao       | 64. P.Apparao                |
| 30. B.Madhavarao           | 65. I.Suryaprakasam          |
| 31. G.Meera Saheb          | 66. D.Apparao                |
| 32. E.Premanandam          | 67. T.V.V.Satyanarayana      |
| 33. P.Chakram              | 68. Yerra Deva Das           |
| 34. Y.Ramam                | 69. S.Prabhudas              |
| 35. G.Paidinaidu           | 70. O.Jaggarao               |
| 36. P.Nageswararao         |                              |

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71. Ch.Radhakrishna Raju
72. D.Satyanarayana
73. T.Raghavaiah Prabhakar
74. M.Srinivasa
75. Uma Kanta Patra
76. A.Kumar Chourisia
77. K.Simhadari Raju
78. V.Satyanarayana
79. Mohd. Riyaj-ud-din
80. Sridhar Bisoi
81. B.Butchamma Naidu
82. K.Narayanamurthy
83. Sheikh Madeena Bhasha
84. S.Venkata Bhaskar Rao
85. Malleshwara Rao
86. A.Suryanarayana Murthy
87. A.Latcha Appa Rao
88. J.Babu Rao
89. M.Victor Jayabob
90. G.Appala Raju
91. Sheikh Meerjan

... RESPONDENTS

O.A.No.612/87

Between:

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|----------------------------|------------------------------|
| 1. D.B.V.Ramakrishnam Raju | 31. E.Premanandam            |
| 2. S.V.V.Suba Raju         | 32. P.Chakram                |
| 3. D.V.S.Budha Prasad      | 33. Y.Ramam                  |
| 4. Nakka Venkata Ramana    | 34. G.Paidinaidu             |
| 5. K.Krishna Murthy        | 35. P.Nageswara Rao          |
| 6. V.Surya Prakash Rao     | 36. A.Mavullu                |
| 7. G.Shantiraju            | 37. K.Sreeramulu             |
| 8. K.Suryanarayana         | 38. P.Appa Rao               |
| 9. B.Narasimha Rao         | 39. T.Subba Rao              |
| 10. J.Joga Rao             | 40. P.Rama Raju              |
| 11. K.Sreerama Murthy      | 41. Y.Sanyasi Rao            |
| 12. P.Appalaramu           | 42. K.Kotayya                |
| 13. S.Samson Raju          | 43. K.Appalakrishna Rao      |
| 14. M.Venkata Appa Rao     | 44. K.Satyanarayana Murthy   |
| 15. C.Raja Rao             | 45. P.Satavahana Rao         |
| 16. Sheikh Appa Rao        | 46. D.Appala Narasimha Raju  |
| 17. A.Jesu Das             | 47. G.Krishna Rao            |
| 18. P.Sriranganayakulu     | 48. P.Appa Rao               |
| 19. B.Sivaramakrishna      | 49. Ratna Kumar              |
| 20. K.Sreeramulu Naidu     | 50. N.Rama Raju              |
| 21. C.Satyanarayana        | 51. N.Atchaimu Naidu         |
| 22. R.Ramesh Babu          | 52. M.Dakshinamurthy         |
| 23. K.Krupananda Rao       | 53. S.Satyanarayana          |
| 24. P.Venkanna             | 54. K.Sanjeevi               |
| 25. N.Ramakrishna          | 55. V.Venkataraju            |
| 26. R.Venkata Appa Rao     | 56. V.B.V.Satyanarayanaraju  |
| 27. A.Venkataramana Murthy | 57. S.Sanyasi Vijayaramaraju |
| 28. A.Visweswara Rao       | 58. L.Appa Rao               |
| 29. B.Madhava Rao          | 59. V.Suryaprasad            |
| 30. G.Meera Saheb          | 60. G.Prabhakarareddi        |

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| 61. N.Gopinachand          |                            |
| 62. P.Venkata Rao          |                            |
| 63. P.Appa Rao             |                            |
| 64. I.Surya Prakasam       |                            |
| 65. D.Appa Rao             |                            |
| 66. T.V.V.Satyanarayana    |                            |
| 67. Yerra Deva Das         |                            |
| 68. S.Prabhudas            |                            |
| 69. O.Jagga Rao            | 81. K.Narayana Murthy      |
| 70. Ch.Radhakrishana Raju  | 82. Sheikh Madeena Basha   |
| 71. D.Satyanarayana        | 83. S.Venkata Bhaskara Rao |
| 72. T.Raghavaiah Prabhakar | 84. Malleswara Rao         |
| 73. M.Srinivasa            | 85. A.Suryanarayana Murthy |
| 74. Uma Kanta Patra        | 86. A.Latcha Appa Rao      |
| 75. A.Kumar Chourasia      | 87. J.Babu Rao             |
| 76. K.Simhadari Raju       | 88. M.ictor Hayabob        |
| 77. V.Satyanarayana        | 89. G.Appala Raju          |
| 78. Mohd.Riyajuddin        | 90. Sheikh Meerjan.        |
| 79. Sridhar Bisoi          |                            |
| 80. B.Butchamma Naidu      |                            |

... APPLICANTS

AND

1. The Admiral Superintendent,  
Naval Dockyard, Visakhapatnam. A.P.
2. The Deputy Manager (Fabrication),  
Naval Dockyard, Visakhapatnam.
3. K.V.Parvatha Rao
4. S.K.Muniuddin
5. S.R.Das
6. M.Sankara Rao
7. K.Gopala Rao
8. J.V.A.Rama Rao
9. B.K.Mujendar
10. Abdul Khadim
11. S.Elango
12. V.B.Panigarhi.

... RESPONDENTS

Appearance:

For the Applicants in

OA 573/87

(R-3 to 12 in OA 612/87)

: Sri P.Krishna Reddy, Advocate

For the Respondents-1 in

OA 573/87 & (R1-2 in

OA 612/87)

: Sri N.Bhaskara Rao, Addl.CGS

For the Respondents 2-91 in

OA 573/87

(Applicants in OA 612/87)

: Sri M.Surender Rao, Advocate

CORAM:

The Hon'ble Mr.B.N.Jayasimha, Vice-Chairman  
and

The Hon'ble Mr.D.Surya Rao, Member (Judicial)

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(JUDGMENT OF THE BENCH DELIVERED BY THE HON'BLE  
SHRI D.SURYA RAO, MEMBER (JUDICIAL)).

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The applicants in O.A.No.573/87 (Respondents 3 to 12 in O.A.No.612/87) were apprentices appointed as skilled grade workers in the Plater trade on regular basis in the Naval Dock Yard, Visakhapatnam in July 1984. The Respondents 2 to 91 in O.A.No.573/87 (Applicants 1 to 90 in O.A.No.612/87) were initially recruited in 1979 on casual basis in the plater trade of the said organisation. They were brought to the skilled trade on regular basis in the years 1983, 1984 and 1985. For easy reference, the terms 'Applicants' and 'Respondents' would mean the applicants in O.A.573/87 and the Respondents therein respectively. In the year 1981 there was a re-structuring of the grades on the technical side of the Naval Dockyard. On the basis of the recommendations of an expert Classification Committee headed by a retired judge of the Allahabad High Court appointed by the Government of India, the payscales as indicated below were prescribed:

<u>Erstwhile grade structure</u>	<u>Revised Grade structure from 16-10-81.</u>
a) Tradesmen Group 'A' (Mechanic) (scale Rs.380-560)	Highly skilled Grade-I (scale of Rs.380-560) (pre-revised)
b) Tradesmen Group 'B' Grade-I Fitter (scale Rs.260-400)	Highly skilled Grade-II (scale Rs.330-480) (pre-revised)
c) Tradesmen Group 'C' Grade-II fitter (scale Rs.225-308)	Skilled Worker (scale Rs.260-400) (pre-revised).

For the intermediate grade of HSK-II, the scale of Rs.330-480 was introduced, but the same was not prescribed in certain trades and the plater trade was one such

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grade wherein it was not prescribed. Consequently, when the applicants had completed their apprentice course and were to be absorbed, they were absorbed as skilled workers and not as HSK-II in the plater trade. Similarly, the Respondents who were already working as skilled workers and were eligible for promotion as HSK-II after passing the requisite test, could not be <sup>promoted</sup> ~~accommodated~~ in HSK-II in the plater trade since the intermediate grade was not prescribed in the said trade. To get over this anomaly, provision was made for regulating the trades left out by merging them with allied trades. Consequently, skilled workers (Tradesmen Grade-I) that is, <sup>24091</sup> persons like the Respondents <sup>2</sup> were considered for promotion to HSK-II (Rs.330-480) in the trade of Shipwright (Steel Fabricator). <sup>2</sup> Consequently, <sup>2</sup> After obtaining the options, 45 persons were promoted on 1-2-1985, 39 w.e.f. 17-9-85 and 2 w.e.f. 1-7-86. Thus, while the promotees were duly catered <sup>for and given scope for promotion</sup> with, the other category of employees namely, the apprentices who had completed the apprentice course and who had obtained ~~11~~ more than 60 per cent of marks in the apprentice course (like the applicants) could not be absorbed as HSK-II in the plater trade because the said grade was not available in this trade. Under the rules, they were eligible to be absorbed as HSK-II subject to availability of vacancies. On the ground that vacancies were not available on completion of the apprenticeship, they were absorbed in the lower grade namely skilled grade. It is the grievance of the applicants that they ought to have been absorbed as HSK-II on completion of

*[Signature]*

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apprentice course. When they joined the apprentice course <sup>the</sup> ~~the~~ prospectus was issued intimating <sup>that</sup> ~~that~~ they might be employed on successful completion of training either as Tradesmen Group-B or Group-C depending upon the merit and availability of vacancies. Due to unemployment problem they were forced to join in the lower grade. They submitted applications that they were entitled to be appointed as HSK-II and represented the matter to the higher authorities stating that they were eligible for absorption as HSK-II under the Rules and according to the prospectus issued. They also brought to the notice of the authorities that three other similarly placed persons namely, S/Sri Simhachalam, Trimurthulu and K.L.Krishna were all appointed as HSK-II though in their designated trade the post of HSK-II had been abolished pursuant to the revised pay structure as in the case of plater trade. On <sup>these</sup> ~~the~~ representations, the administration was pleased to issue an option form ~~to which the applicants had to fill in and which is~~ to the following effect:

"I understand that chances of my promotion in this trade will be better than in my old trade. As there were no HSK-II (Plater) at the time of my passing out from DAS, I have no objection to being absorbed as HSK-II with national un-paid seniority from the date as may be applicable."

As there was no specific date for giving the seniority in the option form, the applicants requested that they should be given a specific date with regard to seniority. Thereupon another option form was issued on 6-8-87 adding the following condition:

"I understand that chances of my promotion in this trade will be better than in my old trade. As there were no HSK-II (Plater) at the time of my passing out from AS, I have no objection to being absorbed as HSK-II with effect from 9-7-1986."



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It is stated that the Respondents had accepted the option form and issued a letter Note.PRF/0403 dated 12-8-87 and that the applicants were permitted to appear for the examination for HSK-I. Suddenly, however, a list was published by the Respondents without including the names of the applicants, of candidates to the examination for the post of HSK-I. The examination was proposed to be held on 14-9-87. Since the names of the applicants were excluded in the list of examinees entitled to be absorbed in the post of HSK-I, they approached this Tribunal. They sought a direction to declare that they are deemed to be promoted to the post of HSK-II in the Shipwright (Steel Fabricator) with effect from 9-7-86 in pursuance to the Note PRT/0403 dated 12-8-87 and for a further direction to permit the applicants to appear in the examination for HSK-I in Shipwright (Steel Fabricator) to be held on 14-9-87.

2. It is the case of the Respondents, <sup>2491 2</sup> (applicants in OA 612/87) that the applicants have no right to be absorbed as HSK-II and that the prospectus gives them the right to appointment <sup>only</sup> subject to availability of vacancies. Since there were no posts of HSK-II there was no obligation on the part of the Dockyard to appoint the applicants to HSK-II posts. As they were all appointed in the skilled category they have become juniors to the Respondents since the latter have been appointed to the skilled category much (five years) earlier. It is, further, their case that the applicants cannot be treated as seniors to any of the Respondents. The applicants should have to take their turn according

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to seniority by appearing for an examination for promotion from the trade category of HSK-II. The Respondents<sup>2 to 91</sup> contend that they appeared for the examination in the year 1986 and have come out successfully. The applicants, though were asked to appear for the examination, <sup>but</sup> did not appear. It is further contended that the options given in the year 1985 and the further revised options which they were asked to exercise on 12-8-1987 are illegal. Giving such revised option is only to give a march to the applicants over the respondents. It is alleged that the 2nd Respondent in the OA 612/87 viz. the Deputy Manager (Fabrication) Naval Dockyard, Visakhapatnam is interested in the applicants (Respondents 3 to 12 in OA 612/87) and thereby directed by proceedings dated 12-8-87 that they should be made eligible to appear for the examination for the post of HSK-I. It is contended that it is discriminatory, and arbitrary. It is, therefore, prayed that the Tribunal may declare the action of the authorities in giving revised option dated 12-8-87 to the applicants as illegal, for a direction that the Respondents (applicants in OA 612/87) are entitled to become HSK-II on the basis of the options exercised by them in the year 1985 and that they are entitled to become HSK-I on the basis of the options exercised by them in the year 1985.

3. In O.A. 573/87, by way of an interim direction, the applicants were permitted to sit for the examination scheduled to be held on 14-9-1987 but the selections, if any, made, were, however, directed to be subject to the final result of the O.As.

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4. On behalf of the respondents <sup>to departmental to separate</sup> [authorities], counters have been filed in both the cases. In O.A. 573/87, while admitting that the applicants, after passing out from the Apprentice School were to be absorbed at the level of HSK-II (Rs.330-480) commensurate with the merit awarded in the passing out examination, it is stated that they were absorbed only as platers (skilled) (Rs.260-400). The absorption of the applicants was done in view of the fact that HSK-II skilled grade was not available for the plater trade due to re-structuring. It is admitted that the applicants represented to consider their cases for re-classification to the allied trade of Shipwright (Steel Fabricator) in which a 3-tier pyramid was permitted. It is stated that their matter was under examination. In order to consider the feasibility of their re-classification and without detriment to the departmental candidates, options were called for and the matter is still under examination. It is contended that a good number of departmental candidates in the same trade were much seniors to the applicants and qualified for HSK-II are awaiting for promotion as HSK-II. It is stated that conversion of the applicants as HSK-II, to the Shipwright (Steel Fabricator) trade will pose administrative problem as it will lead to discontent among senior personnel. It is stated that since the applicants have been absorbed in the skilled grade their next promotion can only be to HSK-II as per the promotion rule. Since under the rules, promotion is to be given on their qualifying in an examination, the counter states that since they had qualified in the apprentice examination with merit marks, they are

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considered to have qualified in the departmental promotion/qualifying examination as a special case. Though they need not qualify in the examination for promotion as HSK-II they must first be promoted and then only they will be eligible for promotion to the next higher grade of HSK-I. With regard to the absorption of similarly placed persons viz. S/Sri Simhachalam, Trimurthulu and K.L.Krishna, it is stated that they were originally appointed as skilled tradesmen in the Control/Instrument trade. It is admitted that they were brought to the allied trade of Fitter Ele.(Control) which is having HSK-II. It is contended that the note of 12-8-87 proposing that the applicants should be allowed to appear for the examination is an internal note and the applicants cannot have any right to claim either the grade of HSK-II on the basis thereof or a right to appear for promotion examination to HSK-I. In the counter in OA 612/87 the department supports the case of the respondents (in OA 573/87<sup>ie</sup> applicants in OA 612/87). As in the counter <sup>in OA 573/87</sup> ~~previously~~, it is stated that the respondents belonging to plater trade, though could not be promoted to HSK-II since this grade was not prescribed for the plater trade, by the Government's letter dated 11-5-83 prescribing the revised payscales, that the Respondents were due to appear for the departmental promotion examination by the time the revised payscales came into force, that, therefore, options were called for from the applicants for allowing them to allied trade namely, Shipwright(Steel Fabricator) subject to the condition that the persons promoted would continue to perform the duties of plater and the option would

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hold only to derive them the benefit of promotion. After obtaining the options, the respondents (applicants in O.A. 612/87) were allowed to appear for the departmental qualifying examination for the grade of HSK-II in the allied trade namely Shipwright (Steel Fabricator). Many of the personnel qualified in the examination are awaiting, in the list for promotion to the grade of HSK-II. In so far as the applicants (respondents in O.A. No.612/87) are concerned it is stated that they had passed the apprentice examination and so they were deemed to have qualified for HSK-II (Shipwright / Steel Fabricator). As in the counter in O.A. No.573/87, it is contended that the note PRF/0403 dated 12.8.1987 is only an internal exchange of correspondence and no final rights have been conferred thereunder. Finally, it is admitted in the counter (in O.A. No.612/87) that the Respondents (applicants in O.A. No.612/87) are seniors to the applicants (Respondents in OA No.612/87) in the grade of Tradesman (Plater/skilled), that the applicants (in O.A. No.573/87) have not been re-designated as HSK - II, that they have not superseded the respondents (applicants in O. A. No.612/87) and that the Deputy Manager's Note PRF/0403 dated 12.8.'87 is not relevant. It is admitted that the rule of absorption of ex-apprentices in general at higher grade with advance increments, if any is explicit as per Recruitment / Promotion Rules laid down in SRO 338/79 as amended vide SRO 131/84 and 25/87 and also taking into consideration the Ministry of Defence letter dated 22.2.71 read with Ministry of Defence letter dated 5.11.71.

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In the counter in O.A. 612/87 it is, however, contended that notwithstanding this position, since there was no scale of Rs.330-480 equivalent to HSK-II in the plater trade, since the grade was abolished under letter dated 11-5-83 and 5-10-84, the applicants (in OA 573/87) were absorbed at the plater (skilled) level with advance increments and so they are not eligible for appointment as HSK-II. Thus, in all respects, the claim of the Respondents (applicants in OA 612/87) that they are seniors to the applicants (Respondents in OA 612/87) was supported by the Department. It is prayed by the Department that the claim of the applicants (in OA 573/87) that they should be allowed to appear for the examination for HSK-I should not be upheld since they were not eligible to appear for the said examination unless they were first promoted as HSK-II. A direction is also sought not to give effect to the results of the examination to which the applicants (in OA 573/87) had appeared pursuant to the interim orders of the Tribunal.

5. From the averments made by the applicants and the contesting respondents 2 to 90 and of the first Respondent Government, it is clear that there are various trades in the Naval Dockyard, Visakhapatnam manned by technical staff and that Tradesmen comprise of three grades viz. Highly skilled Grade-I (Rs.380-560), Highly Skilled Grade-II (Rs.330-480) and Skilled Grade (Rs.260-400). These scales were introduced in 1983 on the basis of recommendations of an Expert Classification Committee presided over by a judge of the Allahabad High Court. The rules viz. Recruitment/Promotion Rules laid down in SRO 338/79 as amended by SRO 131/84 and SRO 25/87 provide for appointment to HSK-II

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(Rs.330-480) by promotion from among skilled workers (in grade Rs.260-400) after passing of a test and of apprentices who secure more than 60% of the marks in the prescribed test after completion of apprenticeship. The right of apprentices to get themselves absorbed in the HSK Grade II is subject to availability of vacancies. In so far as the Plater Trade and certain other Trades like the Control (instrument) Trade <sup>are concerned,</sup> consequent on the <sup>implementation</sup> ~~introduction~~ of the Expert Classification Committees recommendations the intermediate post of HSK Grade II was abolished and thus there was no scope for promotion of skilled workers to the posts of HSK Grade II or for appointment of apprentices to the said posts despite their having qualified by securing the required marks. To obviate these difficulties and hardships the Dockyard authorities devised a scheme of merging the Trades wherein there are no intermediate posts of HSK Grade II with allied Trades. Thus skilled workers in the Plater trade were given the option of appearing for an examination for appointment as HSK Gr.II but in regard to vacancies in the allied Trade of Shipwright (Steel fabrication). After passing of the tests and selection and appointment as HSK-II against vacancies in the allied trade, these promotees continued to perform the duties of platers. As a result, 45, 39 and 2 skilled workers in the plater trade were promoted as HSK-II on 1-2-85, 19-9-85 and 1-7-86 against vacancies in the Shipwright (Steel Fabricator) trade. In so far as the apprentices like the applicants, they were not appointed as HSK-II but as Skilled workers in the lower grade of Rs.260-400. It is their case that under the rules when vacancies were available whether in the trade of plater or in the allied

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trade of Shipwright(Steel Fabricator) they should have been absorbed in the HSK-II. It is contended that this right of the applicants was duly recognised when they represented <sup>and</sup> that their options were obtained <sup>They claim</sup> and that they should be redesignated as HSK-II with effect from the dates mentioned in the option forms viz. 9-7-86 and given seniority and other benefits in that trade from that date. They claim that under the rules they were entitled to such absorption. They further contend that three apprentices viz. S/Sri Simhachalam, Tirumurthulu and K.L.Krishna who completed the apprenticeship course alongwith them but in another trade viz. Control (Instrument) Trade were appointed as HSK -II. It is contended that those three individuals though appointed as skilled workers were within six months after appointment appointed in an allied trades viz., Fitter Ele.(Control) trade as HSK Gr.II thus giving them the benefit of the recruitment rules. It is the case of Respondents 2 to 9 that the applicants having been appointed as skilled workers <sup>they</sup> have to take their turn along with themselves and other skilled workers according to seniority <sup>which is</sup> to be computed on the basis of the date of initial appointment. It is their case that if this procedure is followed the applicants will get their turn for promotion only after all skilled workers appointed earlier and who have qualified in the promotion examination get promotion/appointment as HSK Gr.II. The case of the Department i.e., respondent 1 is that since there were no posts of HSK GR-II in the Plater Trade the applicants could not be appointed in that grade and had to be ~~appointed in that grade~~ and had to be appointed in the lower grade of skilled workers, that they should take their turn for promotion depending upon the seniority of skilled workers. It is however <sup>conceded</sup> ~~concluded~~ by Respondent 1 that the applicants need not pass the examination pres-

cribed for promotees since they have passed the apprentices examination which renders them eligible for appointment as HSK Gr.II.

6. It is clear from the rival contentions put forth that under the rules the applicants were eligible to be appointed as HSK Gr.II but provided the posts were available. In the instant case the posts of HSK Gr.II were not available in Plater Trade and therefore the applicants were not eligible for direct appointment in the Plater Trade as HSK Gr.II. However that is not the last word on the subject. The file produced disclosed that in regard to trades left out viz., Trades wherein there was no grade of HSK Gr.II provision is made by merging such trades with allied trades wherein HSK Gr.II posts were available. It is by virtue of this merger that the statutory rule which enables skilled workers in the Plater Trade to aspire for promotion to HSK Gr.II was duly implemented. But in doing so the Dockyard authorities have left the other category of employees viz., Apprentices who have qualified in the Apprenticeship examination and who were eligible for appointment as HSK Gr.II high and dry. It is to be noted that though no posts of HSK Gr.II were sanctioned in the Plater Trade the Dockyard authorities by virtue of the instructions that skilled workers (R2 to R 9) in the Plater Trade are eligible for promotion to vacancies in the allied trade of Shipwright (Steel fabricator) trade are continuing to perform <sup>work</sup> <sup>of Platers</sup> in the Plater Trade. This means some of the posts of HSK Gr.II in the Shipwright (Steel Fabricator) Trade have <sup>for all purposes of promotion</sup> been transferred to the Plater Trade. Despite such vacancies being available the benefit of these posts are given only to promotees and not the category of apprentices who are for all purposes deemed to be direct recruits. Depriving the apprentices the right

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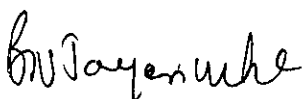
to appointment as HSK-II would be contrary to the recruitment rules. As long as posts of HSK-II are available to promotees they must equally be made available to the apprentices also. Failure to do so would be contrary to the rules and limiting the right of ~~only promotees to~~ <sup>only to promotees</sup> appointment as HSK-II would be arbitrary and violative of the rights of the apprentices guaranteed under the equality clauses of Article 14 of the Constitution of India. Further the Respondents Dockyard authorities have not been able to satisfactorily explain how three apprentices viz. S/Sri Simhachalam, Tirumurthulu and K.L.Krishna could have been appointed as HSK-II against vacancies in an allied trade on the basis of their passing the apprenticeship examination and the marks obtained therein. Their appointments could only be justified if vacancies of HSK-II in the allied trade are treated as vacancies in the trade to which they were appointed. On the same analogy, the applicants also would be entitled to vacancies of HSK-II in the allied trade. The option given to the apprentices (applicants) is clearly only in accordance with the recruitment rules and no objection can be taken thereto. The plea of <sup>the</sup> Dockyard authorities that the letter Note PRF/0403 dated 12-8-87 which is sought to be quashed in O.A. 612/87 is an inter-departmental note or correspondence and does not <sup>confer</sup> ~~provide~~ any rights on the apprentices is not tenable. The file produced disclosed that all the authorities had taken a decision to redesignate the apprentices in the Plater Trade who comprise 18 in all, on various dates varying from 9.7.86 to 4.12.86. The applicants in O.A. 573/1987 are entitled to the benefit of these orders u.s.f. 9.7.86. The letter dt.12.8.87 which only seeks to

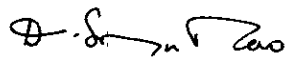


(77)

implement this decision is not an illegal order and can be validly implemented. In any event even if there were no orders for the reasons given by us already the applicants - apprentices are entitled to redesignation as HSK Gr.II since such redesignation will be in accordance with the recruitment rules.

7. For the reasons given by us in the preceding paragraph O.A.573/1987 is allowed as prayed for and the first respondent is directed to treat the applicants therein as promoted as HSK Gr.II with effect from 9.7.86 against vacancies in the Shipwright Steel Trade. If the applicants in accordance with such seniority are eligible to have appeared for the promotion test the category of HSK Gr.IX held on 14.9.87 to which they were permitted to appear by the interim orders of this Tribunal, if they shall be promoted to the said posts of HSK Gr.I provided they have passed the test. O.A. 612/1987 is dismissed. Parties to bear their own costs.

  
(B.N. JAYASIMHA)  
HON'BLE VICE CHAIRMAN

  
(D. SURYA RAO)  
HON'BLE MEMBER (JUDICIAL)

Date: 4 June 1990.

  
For Deputy Registrar(J)

To:

1. The Admiral Superintendent, Naval Dockyard, Visakhapatnam.
2. The Deputy Manager (Fabrication), Naval Dockyard, Visakhapatnam.
3. One copy to Mr. P. Krishna Reddy, Advocate, 3-5-899, Himayatnagar, Hyderabad-500 029.
4. One copy to Mr. N. Bhaskara Rao, Addl. CGSC, CAT, Hyderabad.
- 5 & 6: Two copies to Mr. M. Surender Rao, Advocate, Hyd.
- 7 & 8. Two spare copies.

kj.