

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 668/91.

Dt. of Decision : 30-1-95.

1. Yellareddy	13. N. Sangishetty
2. K.Ramesh Kumar	14. Narsimha Reddy
3. M.Srinivas	15. N.Ramulu
4. P.Subramanayam	16. Mohd. Khaju
5. Y.Pandari	17. N.Ashok
6. K.Srinivas	18. E.Jyothi Raju
7. Ramchander	19. R.Punnaiah
8. Anthi Reddy	20. Sk. Altaf Hussain
9. P.Ravindrababu	21. A.Hakeem
10. R.Balananda Kishore	22. K.Yadagiri
11. N.Venkatram Reddy	23. J. Anthaiah
12. K. Raj Kumar	.. Applicants.

vs

1. The Govt. of India, rep.
by the Secretary to Govt.,
Ministry of Defence,
Central Secretariat, New Delhi.
2. The Ordnance Factory Board,
Ministry of Defence,
Govt. of India, rep. by its
Secretary, 10 Auckland Road,
Calcutta-700 001.
3. The Ordnance Factory Project,
Ministry of Defence, Govt. of India,
rep. by the General Manager,
Eddumilaram Village,
District Medak (AP).

Counsel for the Applicants : Mr. Y. Suryanarayana

Counsel for the Respondents : Mr. N.V.Ramana, Addl. CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

OA 668/91

I AS PER HON'BLE JUSTICE SHRI V. NEELADRI RAO,
VICE-CHAIRMAN I

Heard Shri Y. Suryanarayana, learned
counsel for the applicant and also Shri N.V.
Ramana, learned standing counsel for the Respondents.

2. This OA was filed praying for declaration
that the inclusion of 'examiners' trade in Annexure B
to S.R.O 18-E dated 6-7-89 at sl. No. 59 is highly
arbitrary, discriminatory and unconstitutional
and for consequential direction to the Respondents
to include the 'examiners' trade in Annexure A and
for consequential upgradation of the applicants
to the skilled grade with effect from respective
dates of completion of 2 years of service in the
semi-skilled grade with all consequential benefits.

3. The facts which give rise to this OA are
as under:-

"Examiner" is one of the 23 common trades
identified as common grade skilled jobs as per
letter No. 3808/OS(O&M)/Civ-I/84) dated 15-10-1984
addressed to the Director-General, Ordnance Factory
Calcutta. Two channels were provided for induction
into the skilled grade.

1. A direct recruit with I.T.I certificate/
ex-trade apprentices/NCTVT etc. inducted into semi-
skilled grade has ^{been} upgraded to skilled grade
on completion of 2 years.

2. One who is not having the above qualifi-
cation ^{is} upgraded to skilled grade on passing
the prescribed/test, ^{and} completion of 3 years of
service in the ^{semi} skilled grade.

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4. These 23 applicants are having I.T.I. certificates. All of them were directly appointed for the post of examiner-semi skilled in 1988 when they were selected from amongst the candidates sponsored by the Employment Exchange. The period of probation is 2 years. By Factory order dated 24-7-90, R3 declared the successful completion of the period of these applicants. When they requested for upgradation to the post of skilled category on completion of 2 years of service in the semi-skilled category, a trade test was conducted to the applicants for their induction into skilled grade and when they passed the trade test, they were inducted into the skilled grade, w.e.f. 4-3-91.

5. These applicants filed this OA praying for a direction to the Respondents to advance the date of their induction into the skilled grade from the respective dates on which they completed 2 years of service in semi-skilled category by alleging that it will be discriminatory if they are not given the upgradation on completion of 2 years in semi-skilled category when those in all other trades in the ordinance factories for which the minimum educational qualification is I.T.I./NCTVT were upgraded on completion of two years of service ex-trade apprentices, and when the post of examiner was also one of the 23 trades which may be identified as common category skilled jobs as per letter dated 15-10-84 referred to supra. // It is alleged in the counter filed in the OA that the post of examiner is shown in Annexure 'B' as per SRO 18-E dated 6-7-89 and a period of 3 years is required for trades included in Annexure B besides passing the trade test for promotion to the skilled grade. Then the applicants had come up with amendment petition seeking the relief as referred to. It is also alleged

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in the amendment petition that the inclusion of examiner under Annexure 'B' instead of including it under Annexure 'A' is discriminatory for all other trades except examiner in the Annexure 'B' do not require minimum educational qualification of I.T.I/ex-trade apprentices/NCTVT while it is so required for the post of examiner and also all the trades referred to in Annexure 'A'.

6. There are 36 trades in Annexure 'A' while there are 125 trades in Annexure B to SRO 18-E dated 6-7-89. It is conceded that the trade examiner was one of the common categories (skilled) as per letter dated 15-10-84. But the same was included in Annexure 'B' of SRO dated 6-7-89. On completion of 2 years of service, the direct recruits to Annexure A categories were promoted to skilled category. But direct recruits in regard to the trades under Annexure 'B' are given promotion on completion of 3 years and ^{passing} the trade test prescribed. The various unions submitted ^{Union Government} representations to the ~~Ordinance factory~~ praying for deletion of the trade 'examiner' from Annexure 'B' and inclusion of the same under Annexure 'A'. It may be noted that pending consideration of the same, R3 conducted trade test to these applicants and they were promoted to the skilled category on 4-3-91, even before they completed 3 years of service in the ^{Senior} ~~same~~ skilled category. Ultimately, an amendment was issued whereby the trade 'examiner' was deleted from Annexure 'B' and included in Annexure 'A' vide SRO 185/94. It is stated that the same was published on 12-11-94 and it is prospective. In para 5(ii) of the OA it is stated as under, for contending that it is discriminatory and

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violative of article 14 in not promoting the appointed
for trade 'examiner' on completion of 2 years of service
and without subjecting them to trade test.

"Para 5 (ii) of the OA:

The trade of Examiner is one of the 23 trades grouped together as common category skilled jobs. As with regard to all other categories persons are inducted into skilled grade as soon as they complete two years of service provided they are direct recruits with I.T.I/NCTVT certificate holders. As with regard to the trade Examiner(s) this procedure is not followed. This is discriminatory. The Respondents are trying to classify the Examiners into a different group when ~~all~~ they also belong to common category trade and the qualification prescribed and the degree of skill expected of is the same for all these common category trades. There is no rationale behind the classification and there is no nexus between the classification and the object sought to be achieved by such a classification. Therefore, the classification is ultravires and unconstitutional and it is violative of articles 14 and 16 of the constitution of India."

7. It is alleged as under in para 6 of the
(ii)
reply statement by way of reply to para 5₁ of the
OA:

"In reply to para 5(ii), it is submitted that the Government orders dt. 15-10-84 cited by the applicants are not applicable to them as it was superseded by another Government order dated 06-07-89. According to these orders, the

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the applicants stood eligible for promotion to Examiner (skilled) only after completion of 3 years service in the grade of Examiner (semi-skilled) and on passing the prescribed trade test".

It is manifest that the Respondents ~~did not~~ traverse the plea in regard to discrimination.

9. It is indisputable that the trade examiner was also identified as one of the 23 "common

category skilled jobs" as per letter dated 15-10-84

referred to supra. ~~of the~~ ^{the} remaining 22 trades

under the said category skilled jobs, were included

in the trades referred to under Annexure 'A' in

SRO dated 6-7-89. It is not stated for the Respon-

dents that the minimum qualification prescribed for

the category 'examiner'. It is explained for the

applicants that in view of the technical qualifica-

tions of I.T.I./ex-trade apprentices/NcTvt, those who

are recruited for the above trades are not being

subjected to trade test for promotion and they are

given promotion on the basis of completion of 2 years

period of probation, and it is urged that no material

is placed for the Respondents to show that the

examiners though having similar qualifications

~~having~~ been categorised under Annexure B have to be

subjected to trade test and they have to work for

longer periods for promotion. It may be noted that

even R3, the appointing authority promoted the appli-

cants to skilled grade on 4-3-91 while they completed

3 years of service only in May, 1994. Probably R3

might have also felt that ~~my~~ ⁱⁿ mistake the trade

examiner was included in Annexure B instead of

including it under Annexure A. Long adjournments

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were being taken in this OA by stating that the matter is under consideration of the concerned authority in view of the representations made by the Unions. Ultimately, amendment was made in November, 1994. But instead of giving retrospective effect, it is made prospective only. Hence on the basis of the material available, it is not unreasonable to hold that by oversight or by mistake, the trade examiner was included in Annexure B instead of in Annexure A. Those selected for trade 'Examiners' were promoted for skilled grade on completion of two years without subjecting them to trade test between 15-10-84 and 6-7-89. Even from 12-11-94 also those selected for trade 'Examiner' was entitled to promotion to skilled grade without being subjected to trade test, on completion of 2 years by 12-11-94 or later. There is force in the contention that there was no justification for fixing 3 years service and prescribing trade test for promotion to skilled grade between 6-7-89 and 12-11-94. As already observed that even by 15-10-84, trade examiner was identified as one of the 23 skilled jobs and the minimum technical qualification for all of them is same and the remaining 22 trades were included under Annexure A to SRO dated 6-7-89. Probably realising that there are no grounds for retaining trade examiner under Annexure 'B' to SRO dated 6-7-89, it is now brought under Annexure 'A'.

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So we fully agree with the contention for the applicants that it is discriminatory if the trade examiner is not included in Annexure A and it is arbitrary when the amendment made in November, 1994 is directed to be prospective instead of making it retrospective from 6-7-89, the date on which the SRO 18-E was issued.

10. Hence the Respondents have to be directed to advance the dates of promotion of the applicants to the post of skilled category from the respective dates on which they completed 2 years of service in the category of semi-skilled and they have to be paid the difference in pay and other emoluments and they have to be given seniority on the basis of advancement of dates of promotion, if the question of seniority also arises. The O.A is ordered accordingly.

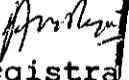
No costs. /


(R. RANGARAJAN)
Member (Admn.)


(V. NEELADRI RAO)
Vice-Chairman

Dated 30th January, 1995
Opencourt dictation

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Deputy Registrar

To

1. The Secretary to Govt. Govt.of India,
Ministry of Defence, Centfal Secretariat, New Delhi
2. The Secretary, Ordnance Factory Board,
Ministry of Defence, 10, Auckland Road, Calcutta-1.
3. The General Manager, Ordnance Factory Project,
Min.of Defence, Govt.of India, Eddumailaram Villa
4. One copy to Mr.Y.Suryanarayana, Advocate, CAT.Hyd.
5. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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ref no
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