

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: BENCH HYDERABAD BENCH

AT HYDERABAD.

OA 1547/94

Between:

1. A. Narayana son of Late A. Narsaiah aged 27 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
2. K. Venkateswarlu son of K. Chinna Ramulu, aged 27 years, working as Chargeman, Ordinance Factory, Yeddumailaram, Medak.
3. G. Vasudeva Rao son of G. Seeta Ramaiah, aged 28 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
4. B. Srinivas Rao son of B. Venkateswara Rao, aged 28 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
5. G. Ramanaiah, son of G. Venkata Subbaiah, aged 30 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
6. E. Venkateswarlu son of E. Rajaiah, aged about 26 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
7. G. Vidyasagar Rao son of G. Janardhana Rao, aged 25 years, working as Chargeman mailaram, Medak.
8. K. Sateesh Kumar son of K. Narayana, aged 28 years, Occupation: Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
9. B. Srinivas son of B. Ramulu, aged 26 years, Occupation: Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
10. M. Annapoorna Sarma son of M. A. Satyanarayana Murthy, aged 33 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
11. U.N.V. Satyanarayana son of U. Surya Rao, aged 25 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
12. L. Jaya Rami Reddy son of L. Gurivi Reddy, aged 32 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.

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13. E. Narasimha son of E. Ramulu, aged 25 years, working as Chargeman Grade Ist, Ordinance Factory, Yeddumailaram, Medak.
14. A.K. Nath son of Bijoy Krishnanath, aged 42 years, working as Chargeman Grade II, Yeddumailaram, Medak.
15. J. Madhusudhana Reddy son of J. Subba Reddy, aged 32 years, working as Chargeman Grade II, Yeddumailaram, Medak.
16. Vidyanand son of G.M. Shankerlal aged 29 years, working as Chargeman Grade II, Yeddumailaram, Medak.
17. K. Naga Srinivas son of K. Rama Gurnadham aged 33 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
18. M. Srinivasa Rao son of M. Satyanarayana, aged 28 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
19. A. Venkateswara Rao son of A. Giri Raju, aged 32 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak District.
20. Ch. S. Seshagiri Rao son of Ch. Ranga Rao, aged 26 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak District.
21. K. Phani Raja Kumar son of K. Udaya Bhanu Murthy, aged 27 years working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak District.
22. J. Prem Kumar son of J. Venkaiah, aged 26 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak District.
23. D. Srinivasa Rao son of D. Narsimha Murthy, aged 29 years, Occupation: working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
24. M. Hari Babu son of N. Balakotaiah, aged 35 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
25. ~~N. Hari Babu son of N. Balakotaiah, aged 35 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.~~

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25. K. Sri Laxmi ^{Daughter} son of K.s. Anjaneyulu, aged 24 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
26. M. Nagaraju son of M. Laxmaiah, aged 27 years, working as chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
27. Y. Venkata Ramana son of Y. Murahari, aged 28 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
28. N. Suresh Babu son of Late N. Subba Rao, aged 31 years, working as Chargemn Grade II, Ordinance Factory, Yeddumailaram, Medak.
29. Ch. Uma Maheshwara Rao son of Late Ch. Veerabhadra Rao, aged 31 years workkng as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
30. G. Shekhar son of G. Rajeshwara Rao, aged 30 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
- ~~Raghavulu, aged 25 years, working as~~
Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
32. V. Suresh Babu, V. Koteswara Rao ~~son~~ aged 24 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
33. N. Swamy son of N. Sakru, aged 27 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
34. S. Mastan Rao son of S. Nageswara Rao, aged 31 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
35. S. Subbi Rami Reddy son of S. Malakonda Reddy, aged 33 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
36. P. Joshi Kumar son of P. Krishna Murthy, aged 30 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
37. N. Rama Raju son of N.V. Subba Raju, aged 28 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
- ~~32 years, working as C.V. Venkatesu, aged~~
Ordinance Factory, Yeddumailaram, Medak.
39. S. Venkateswara Babu son of Late S. Gopala Krishna Murthy, working as Chargeman Grade II, Ordinance Factory.

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40. Ch. Subba Rao son of Ch. Krishna Murthy, aged 35 years working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
41. G.V. Narsimha Reddy son of G. Krishna Reddy, aged 31 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
42. Ch. Ravinder son of Ch. Venkatachalam, aged 31 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
43. B.L. Srinivas son of B. Lingam, aged 25 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
44. N. Venkateswara Rao son of N. Govinda Rao, aged 32 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
45. D. Bala Krishna son of D. Ramachandra Rao, aged 30 years working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.
46. B.G. Maheswara Reddy son of B. Ramulu, aged 31 years, working as Chargeman Grade II, Ordinance Factory, Yeddumailaram, Medak.

.. Applicants.

and

Union of India represented by:

1. Secretary to Government, Ministry of Defence (Department of Defence Production & Supplies) New Delhi.
2. The Director General & Chairman of Factory Board, ~~New Delhi~~ Calcutta
3. The General Manager, Ordinance Factory Project, Yeddumailaram, Medak.

.. Respondents.

Address for service of notices: K.S.R. ANJANEYULU, B.A., LL.B.
D. SUBRAHMANYAM,
Advocates, 1-1-365/A,
Jawaharnagar, Bakaram,
HYDERABAD 500 020.

Details of Application:

1. Particulars of the order against which this application IS MADE:

This application is against DGOF & Chairman of Board, Calcutta Lr.No: 2982/Rectt/A/NG dated 4.10.1994 communicated under General Manager, Ordinance Factory Project, Yeddumailaram 502205 F.O.No: 189 dated 21.10.1994 (Annexure I) holding

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LDCE of JWM of Ordinance Factories on 29th and 30th of December, 1994.

2. Jurisdiction of the Tribunal:

The applicants declare that the subject matter of the order against which they want redressal is within the jurisdiction of the Tribunal under section 14 (1) of the Administrative Tribunal Act as the applicants are working in Ordinance Factory, Yeddumailaram, Medak.

3. Limitation:

The applicants declare that the application is within the limitation period prescribed in section 21 of the Administrative Tribunal Act. The date of the impugned order is 4.10.1994 (Annexure I). The applicants submitted identical representations on 24.10.1994. They have not received any reply. The exams are scheduled to be held on 29th and 30th of December, 1994. They have no alternative effect and efficacious remedy. Hence this application.

4. Facts of the case:

The applicants humbly submit that they are all engineering graduates or possess equivalent qualifications. They are presently working as Chargeman Grade II (Technical) in the office of Ordinance Factory, Medak, Yeddumailaram in the pay scale of Rs. 1400 to 2300. Each one has completed more than eight years of service in the department. The normal channel of promotion is to the grade of Chargeman Grade I in the pay scale of Rs. 1600 to 2600. Further promotion is Assistant Foreman in the pay scale of Rs. 2,000 to 3200 and there to Foreman which is reclassified as Junior Works Manager (Group 'B' Gazetted) in the pay scale of Rs. 2375 to 3500.

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The applicants humbly submit that as per gazette (Annexure 2) notification No: 8 dated 4.5.1989/~~XXXXXX~~ i.e. according to total recruitment rules and SRO for supervisory and non gazetted cadre in Ordnance factories, the posts of Foreman (Tech.) in pay scales of Rs. 2,375 to 3,500, 25% by promotion on the basis of L.D.C.E. from amongst persons in all categories of Chargeman Grade I or equivalent to above failing which by direct recruitment, and 75% by promotion from pannel prepared by relevant DPC for each category. Subsequently the Government of India, Ministry of Defence vide Lr.No: 7(2)/92/D(FY.I) dated 13.4.1993 circulated by OPB on 22.6.1993 (Annexure 3). Sanction of the President was conveyed reclassifying the ~~XXXXX~~ post of Foreman (Tech) from Group 'C' in the pay scale of Rs. 2,375 to 3,500 in the Ordnance Factory as Junior Works Manager (Group 'B' Gazetted). It is also stated in the said order that Ordnance Factory Board will take necessary action to modify the recruitment rules for the post of Foreman (Tech.) now classified as Jr. W.^M. in Consultation with U.P.S.C., New Delhi. It is also stated at the bottom of Annexure 3 that in terms of Government order (Foreman (Tech) are reclassified as Junior Works Manager Group 'B' Gazetted w.e. from 1.6.1994.

It is however submitted that modified recruitment rules in consultation with U.P.S.C. have not been framed and circulated so far.

The Ordnance Factory Board, however is holding rules in consultation with U.P.S.C., New Delhi as per Board Lr.No: 2982/Rectt/A/NG/dated 4.10.1994 circulated under Ordnance Factory, Yeodumallaram Factory order No: 189 dated 21.10.1994 (Annexure 1). It is contended that

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graduation is invariably the qualification prescribed by U.P.S.C. for any Gazetted post. That being the case the OF Board should have considered graduates in engineering/technology or equivalent who are already working as Chargeman Grade II are eligible to sit for the L.D.C.E. of J.W.M.

It may be noticed from the said circular the persons who are in the categories of Asst. Foreman (Tech.)/Chargeman Grade I (Tech.) with three years regular service in the grade of equivalent are eligible to sit for the examination. The selection will be on the basis of ranking in L.D.C.E. As per old recruitment rules (Annexure 2) 25% of the vacancies are earmarked for L.D.C.E. The remaining 75% are from the panel prepared by D.P.C. It is stipulated in the said circular that standard of exam will be of Degree in Engineering/Technology or M.Sc. Physics/Chemistry or equivalent. This L.D.C.E. is restricted only to the departmental candidates as such the applicants who are Engineering Graduates should also be permitted to sit for the L.D.C.E. Examination.

The applicants humbly state that all of them are working in the Department in the post of Chargeman Grade II. They have also completed more than 3 years regular service in the grade of Chargeman Grade II. They are all engineering graduates. In so far as educational qualifications and length of service is concerned they fulfil the requirements for the purpose of L.D.C.E. Exam. However it is stated in the order that the Asst. Foreman (Tech./Chargeman Gr. I with regular service i.e. in the grade or equivalent are eligible.

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Since the selection is on the basis of rank in the L.D.C.E. and the applicants have also put in sufficient service in the department. There is no reason to deny them the opportunity to sit for the examination.

They possess the qualification of engineering degree/Technology and they fulfil the requires tandards to take examinations. It is further submitted that the post of Chargeman Grade I is filled up from among Chargeman Grade II only on the basis of seniority and A.C.Rs. depending upon the vacancies. There is no further examination or any other additional qualifications or length of service prescribed. For all purposes Chargeman Grade II and Chargeman Grade I are similarly situated except those in Chargeman Grade I ~~are seniors in rank.~~ When a L.D.C. Exam is being held for promotion to the post of Junior Works Manager it would be just and equitable that all the officials in the Chargeman Grade I and Chargeman Grade II should be made eligible to sit for the exam.

It should be remembered that there is no test or any special conditions for promotion from Chargeman Grade II to Chargeman Grade I and for Chargeman Grade I to A/F (Tech.). It may be noticed that Asst. Foreman (Tech.) and Chargeman Grade I are made eligible to sit for the L.D.C.E. of Junior Works Manager. There is no reason to deny the benefit to chargeman Grade II. It is mainly on the ground that there is no test or any special condition prescribed for promotion. Only seniors are being given the post of Asst. Foreman from among Chargeman Grade I. The object of providing L.D.C.E. is only to give a chance to all qualified and capable persons. To sit for the examination and to qualify themselves to avoid frustration and to get the capable men to the post of Junior W.M. In such circumstances the officials in ch

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Grade II who possess degree in Engineering/Tech or equivalent and who stand on the same footing as Chargeman Grade I and promotion to Assistant Foreman should also be considered eligible to sit for the L.D.C.E. of Junior W.M.

It is submitted that action of the respondents not to include Chargeman Grade II (Tech.) as eligible to sit for the L.D.C.E. is unreasonable and discriminatory. It is also irrational. When Asst. Foreman (Tech.) and Chargeman Grade I (Tech.) together are allowed to sit for the L.D.C.E. of J.W.M., there is absolutely no fair reason forthcoming in not including Chargeman Grade II (Tech.) as eligible candidates to sit for the exam.

It is further submitted that officer who are not at all engineering graduation or diploma holders but only promoted from the post of Chargeman Grade II to Chargeman Grade I & Asst. Foreman (Tech.) are made eligible to sit for the exam. Whereas engineering graduates in Chargeman Grade II with 3 years of regular services are not eligible to sit for the exam. It is also worthwhile to note that the standard of exam will be of Degree in Engineering/Technology or equivalent.

It is not the case that the eligibility is restricted only to the cadre of Asst. Foreman (Tech) which is next below to the cadre of J.W.M. It is stated that Chargeman Grade I with 3 years of regular service, even though they are not graduates in Engineering or diploma holders are made eligible.

When it is held that Asst. Foreman (Tech.) Chargeman Grade I with 3 years of regular service in the grade or equivalent are eligible. There is no justification in not

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allowing Chargeman Grade II with 3 years of service with graduation to appear at the L.D.C.E. of J.W.M. It is therefore just and proper that the applicants ~~xxxx~~ who are all engineering graduates with more than 3 years of service to be made eligible to sit for the L.D.C.E. The selection is always on the basis of rank in the L.D.C.E. of J.W.M. The applicants cannot be made ineligible to sit for the exam.

The applicants humbly state that they have submitted identical representation on 24.10.1994 (Annexure 4) to the Chairman, Ordinance Factory Board, Calcutta with a request to consider them eligible to sit for the L.D.C.E. of J.W.M. The applicants have not received any reply from OF Board and no orders are issued to consider them eligible to sit for the L.D.C.E. The applicants are left with no alternative than to approach this Honourable Tribunal for redressal of their grievances.

5. Grounds for relief with reasons

1. The order of the Ordinance Factory Board dated 4.10.1994 (Annexure I) communicated under Ordinance Factory F. Order 189 dated 21.10.1994 (Annexure I) without framing and circulating modified recruitment rules is illegal and arbitrary. They are null and void, and contrary to Government of India, Ministry of Defence order 13.4.1993 (Annexure III).
2. The action of the Director General, Ordinance Factories, Calcutta in not giving eligibility to the applicants to sit at the L.D.C.E. of J.W.M. is discriminatory, arbitrary, irrational offending Article 14 of the Constitution.
3. The action of the D.G.O.F., Calcutta in excluding Chargeman Grade II (Tech.) of graduates with more than

while allowing Chargeman Grade I

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& Asst. Foreman (Tech.) if without degree/diploma in engineering or technology to sit for L.D.C.E. is wholly unjustified and unreasonable.

4. The action of the respondent is in gross violation of principles of natural justice and also discriminatory.

6. Details of Remedies exhausted:

1. The applicants submitted identical representation to the D.G.O.F. & Chairman OF Board/Calcutta on 24.10.1994, requesting him to consider and permit them to sit for the exam. They have not received any reply till date. The exams are scheduled to be held in 29th and 30th of December, 1994.

7. Matters not previously filed or pending with any other court:

The applicants declare that no matter relating to this case is filed or pending in any other court.

8. Reliefs sought:

In view of the facts mentioned in para 4 above the applicants herein humbly pray that this Honourable Tribunal be pleased to declare the order of the D.G.O.F. & Chairman, Ordinance Factory Board, Calcutta in his letter No: 2982/Rectt/A/NG Dated 4.10.1994 circulated under General Manager/OFFM Yeddumailaram vide Factory order No: 189 dated 21.10.1994 (Annexure I) holding the L.D.C.E. for the post of Junior Works Manager without framing and circulating the modified recruitment rules in consultation with U.P.S.C. as directed by Ministry of Defence "Department of Production & Supplies Lr.No: 7(2)/92/D/FYI dated 13.4.1993 (Annexure III).

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as arbitrary and illegal. The respondents maybe directed to frame modified recruitment rules in consultation with U.P.S.C. making eligible the applicants also to sit for the examination and to conduct the examination after the recruitment rules are modified and to pass such order or orders as are deemed fit and proper in the circumstances of the case.

9. Interim relief prayed for:

pending final decision on the application the
Nos. 2 and 3 may be directed not to conduct the
L.D.C.E. for Junior Works Manager on 27th Nov
December as per Board Lr.No: 2982/Rectt/A/NG dated 4.10.1994
communicated under Factory order Part I No: 189 dated
21.10.1994, of General Manager, Ordinance Factory, Yeddumailaram
Medak District (A.P.) Annexure I).

10. Not applicable.

11. Particulars of the Postal order:

1. Postal order No. 01001-11-94 Rs 50/-
2. Date of postal order. 28-11-94
3. Name of issuing post office. Gandhi Nagar
4. Payable at

12. List of enclosures:

Vakalat, Postal order and material papers as per
index.

VERIFICATION

We, the applicants working as Chargeman Grade II
in the Ordinance Factory, Yeddumailaram 502 205 do hereby

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verify that the contents of the paras 1 to 11 are true to our personal knowledge and paras 5 and 8 are believed to be true on legal advise and that we have not suppressed any material facts.

SIGNATURES OF APPLICANTS :

01. [A.NARAYANA]
02. [K.VENKATESWARLU]
03. [G.VASUDEVA RAO]
04. [B.SRINIVASA RAO]
05. [G.RAMANAIAH]
06. [E.VENKATESWARLU]
07. [G.VIDYA SAGAR RAO]
08. [K.SATEESH KUMAR]
09. [B.SRINIVAS]
10. [M.ANNAPOORNA SARMA]
11. [U.N.V.SATYA NARAYANA]
12. [L.JAYARAMI REDDY]
13. [E.NARSHIMHA]
14. [A.K.NATH]
15. [B.SRINIVAS]

15. [MADHUSUDHAN REDDY]
16. [VIDYANAND]
17. [K.NAGA SRINIVAS]
18. [M.SRINIVASA RAO]
19. [A.VENKATESWARA RAO]
20. [CH.S.SESHAGIRI RAO]
21. [PHANIRAJA KUMAR]
22. [J.PRIYAM KUMAR]
23. [D.SRINIVASA RAO]
24. [M.HARI BABU]
25. [SMT.SREE.LAKSHMI]
26. [M.NAGA RAGU]
27. [VENKATA RAMANA]
28. [N.SURESH BABU]

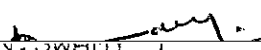
SIGNATURES OF APPLICANTS :

29. 
[CH.UMA MAHESWARA RAO]

30. 
[G.SHEKHAR]

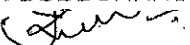
31. 
[S.RAJASEKHAR]

32. 
[V.SURESH BABU]

33. 
[N.SUBBIAH]

34. 
[S.SUBBIRAMI REDDY]

35. 
[S.SUBBIRAMI REDDY]

36. 
[JOSHI KUMAR]

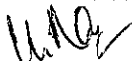
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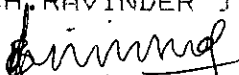
38. 
[Y.SRINIVASULU]

39. 
[S.VENKATESWARA BABU]

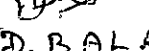
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[CH.SUBBA RAO]

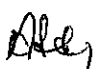
41. 
[G.V.NARSIMHA REDDY]

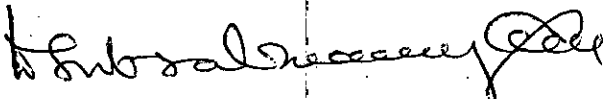
42. 
[CH.RAVINDER]

43. 
[B.L.SRINIVAS]

44. 
[D.BALAKRISHNA]

45. 
[D.BALAKRISHNA]

46. 
[B.G.MAHESWARA REDDY]


Counsel for Applicants