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CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :  
AT HYDERABAD.

O.A.No.1609 of 1995.  
M.A.No.49/96

DATE OF ORDER:- 29-6-1998

BETWEEN :

N. APPALA RAJU  
Son of Kanna Rao  
Occ: Sr.Chargeman,  
Gas Turbine Department,  
Naval Dockyard,  
Visakhapatnam-14.

... APPLICANT

AND

1. Union of India, rep. by its  
Secretary, Ministry of Defence,  
Sena Bhavan, New Delhi-110011.
2. Admiral Superintendent,  
Naval Dockyard,  
Visakhapatnam-14.
3. Manager, Personnel,  
Naval Dockyard,  
Visakhapatnam-14.
4. Manager,  
Gas Turbine Department,  
Naval Dockyard,  
Visakhapatnam-14.

... RESPONDENTS

Counsel for Applicant : Mr.K. Sudhakar Reddy

Counsel for Respondents : Mr. K. Bhaskara Rao, CGSC

CORAM :

HONOURABLE MR. R. RANGARAJAN, MEMBER(ADMINISTRATIVE)

HOURABLE MR.B.S.JAI PARAMESHWAR, MEMBER(JUDICIAL)

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O R D E R .

(Per Hon. Mr. B. S. Jai Parameshwar, Member (J) )

1. Heard Mr. K. Sudhakara Reddy, learned counsel for the applicant and Mr. K. Bhaskara Rao, learned Standing Counsel for the respondents.

2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 13.9.1995.

3. The applicant herein was directly recruited as Senior Chargeman in the Gas Turbine Department, Naval Dockyard, Visakhapatnam, during the year 1982. It is stated that the applicant passed the qualifying examination for promotion to the grade of Foreman, Gas Turbine ( in short 'G.T.') during the year 1986 itself. The grievance of the applicant is that the respondents failed to consider his case for promotion as Foreman, G.T. and on the other hand, the respondents considered the case of the other candidates detailed in page 3 of the O.A. who became qualified for promotion later than him.

4. The applicant submits that two vacancies of \_\_\_\_\_ are available in the Naval Dockyard and that he is also available for promotion. However, the respondents are not considering his case for promotion. Further his grievance is that even though he completed 12 years of service as Senior Chargeman, he has not been promoted to the next higher cadre even though the promotional posts were available in the Naval Dockyard. He submits that his representations were rejected on unjustifiable grounds. He further submits that the GTR Bay is running with less supervisory staff; some sections are running with HSK I as Section Incharge and Foreman from

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Machine trade and Foreman from Electrical trade were brought on deputation for running the shop; that the Senior Foreman who is working in the G.T. Department belongs to SFM(ICE) and another Senior Foreman belongs to Engine Fitting. Thus he further submits that the present borne strength of Tradesmen in the Gas Turbine department is around 150 which demands posting of 4 Foremen and 12 Senior Chargemen; whereas the present strength of Foreman is only one and Senior Chargemen is 3.

5. He submits that the Gas Turbine department in Naval Dockyard, Visakhapatnam was established in the year 1981. Initially it was set up with the help of 6 ICE designated Supervisors and 50 workmen approximately. The ICE Trade designated Supervisors who helped in establishing the shop are furnished in page 4 of the O.A. He submits that the respondent authorities and the appointing authority took up the initiation to bring to the G.T. Department experience oriented Supervisors and workmen by direct recruitment during the year 1981 as per the Dockyard Notice No.P/126/81 dated 20th November, 1981 (Annexure-I to the A.O.) and also 30 workmen of G.T. designated were selected and were undergoing training in the Dockyard Apprentices School in the year 1981; that during the year 1982 two posts of Foreman(G.T.) and 5 posts of Senior Chargeman (GT) with the background of Gas Turbine experience were selected against the Direct recruitment and posted in the G.T. Department. He has given the details of the officials appointed as such in page 5 of the O.A. He submits that in addition to the above GT designated /experienced, about 30 workmen who were trained in the Naval Dockyard Apprentices School were appointed as GT Fitters in the year 1983. He submits that

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with these appointments the Gas Turbine department of the Naval Dockyard was completely established with Gas Turbine experienced staff.

6. Tradesmen in During the year 1992 the strength of Gas Turbine department reached upto 150. The born~~g~~ strength of 150 Tradesmen(workmen) working in the G.T. Department was brought out by the applicant's representation made on 11th May, 1992 (Annexure-IV to the O.A.). He submits that the proposed increase in the Supervisory staff was not positioned proportionally to control over the workmen of the G.T. Department. This increase in the strength of tradesmen without proportional increase in the Supervisory staff is contrary to the existing rules of ratio between the supervisory staff and tradesmen. He submits that the relevant rules are stated in para 5(a) of NSEC/ADM/047 dated 8th November, 1974. According to these rules, the ratio should be 1:7 as per Annexure-V to the O.A. In pages 6 & 7 of the O.A. he has given the strength of Gas Turbine Department in the Naval Dockyard, the cadre strength and the required proportional staff increased in the supervisory category. Thus he submits that there was deficiency in the supervisory staff in G.T. trades and in various trades in the Gas Turbine department. He further submits that even though the supervisory staff was deficient in the Gas Turbine department, the respondents failed to promote even a single employee to the post of Foreman(G.T.) as per the then existing rules. He submits that if 3 Foremen (G.T.) are recruited, then there would be 12 foremen through promotion from the departmental candidates.

7. He submits that he made a representation on 26th November, 1993 and that the Manager, G.T. Department

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recommended his case. But whereas the Manager(Personnel) of the Naval Dockyard rejected the same on certain grounds. His further submission is that the supervisory staff belonging to G.T. Department cannot be filled with other workmen/tradesmen of ICE/Machines/Engine Fitting trades which is contrary to the rules of the Navy Order(CIL)7/78; that the said order is the guidelines for promotion of supervisory staff belonging to ICE department and application of the same for the GT Department is clearly illegal and in view of the specific syllabi and that rules for conduct of departmental promotion examinations for supervisory staff in the Naval Dockyard has been circulated vide Circular No.142/79 dated 9.6.1979. (Annexure-V to the O.A.). He submits that as per the O.M.No.22011/5/86-Estt. of the DOPT and also from Chapter 3 of Part II 3.1. of the Seniority and Promotion D.P.C.meetings should at regular intervals to draw panels which could be utilised on making promotions against the vacancies occurring during the course of the year. He submits that the respondents have failed to follow these instructions in convening the D.P.Cs regularly. He submits that no D.P.C. was held to consider the cadre of Foreman(GT) since 14 years; that no seniority list for Senior Chargemen(GT) was published till 1990; that no amendments for recruitment rules were made to stop the DPCs for Foreman (GT); that no certificates have been made for no vacancies in the grade of Foreman(GT) or no officers are due for promotion to the post of Foreman(GT) by the appointing authorities in dispensing with the D.P.C. since 1982; that determination of regular vacancies was not made in accordance with the rules because the vacancy caused due to resignation of Sri P.Vidyasagar,

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Foreman(GT) during the year 1985 and due to the death of TVVS Rao, Foreman(GT) during the year 1986 were not brought on regular vacancies to be filled up by the DPC during the same year or atleast during the subsequent years to fill the vacancies of Foreman(GT). He submits that new vacancies of Tradesmen being created by appointing trained workmen of GT trade every year through the Dockyard Apprentices School and reached the total workmen of 150 posts as on 1992 which strength demanded atleast 5 Foremen(GT) as per the ratio of 1:7.

8. Hence he has filed this O.A. for a direction to the respondents herein to consider the case of the applicant for promotion to the grade of Foreman(G.T.) with effect from March,1986 with all consequential benefits, such as, arrears of salary, seniority etc.

9. The respondents have filed the counter. The initial appointment of the applicant as Senior Chargeman(G.T.) is not in dispute. It is also not disputed that the applicant passed the qualifying examination for promotion to the post of Foreman(G.T.) during the year 1985. The post of Senior Chargeman(G.T.) in the Turbines Trade is given exclusively and it cannot be merged with any other trade for promotions etc. Thus separate seniority rolls and Roster Point Registers have been maintained. The contention of the applicant that his case for promotion was not considered when compared to his colleagues from the other branches is not tenable. They also state that the release of vacancy of Foreman (GT) depends basically on the functional requirement of the Yard. Keeping the requirements of the yard, vacancies in respect of Electrical and Engine Fitting were released during December,1993 and as such, the personnel mentioned

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at Sl.Nos. 2, 3 & 4 in the O.A. were promoted based on the Point Registers that were maintained tradewise in line with the approved trade structure. As such, the applicant cannot compare the promotions of the other personnel belonging to different trades. It is stated that Sri P.Vidyasagar, Foreman(GT) was appointed on 19.7.1982 <sup>from</sup> and subsequently he resigned the post; whereas Sri T.V.V.S.Rao, Foreman (GT) was appointed on 3.3.1983 and he expired on 15.9.1986. They submit that there were no clear Government sanctioned posts for Foreman(GT). They submit that whenever a vacancy is released to be filled with promotees, his case would be considered in the DPC subject to the points available in Point Roster and ACRs. The applicant cannot demand for promotion against the resultant vacancies which can be diverted to any other trade by the Cadre Controlling Authority depending on the functional requirements of the yard. In view of the ~~circumstances~~ ~~expedition~~, ~~expedition~~

the above position. They have also given the borne strength of the G.T.Department in page 3 of the reply. They submit that since the establishment of the G.T.Department, the details of the Supervisors employed to undertake supervision of workers in G.T.Department who were well acquainted with the management of the G.T.Department are given in page 3 of the reply. They submit that the tradesmen of G.T.Trade were newly introduced and no one was eligible to get promoted to SFM as there were only 2 HSK-I borne which is a feeder grade. Unless, there was sufficient number of tradesmen (HSK-I), available for the post of SCM, the situation would not improve. As a result, the promotions to Foreman was affected. Hence the Supervisors belonging to the other

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trades who were well acquainted were employed for supervision of Tradesmen borne in GT Department.

10. The respondents disputed the number of tradesmen in various grades in the Gas Turbine department is 133. The ratio followed between the Tradesmen and Supervisors is 1:7 and the ratio followed amongst the Supervisors is 1:2:6. They submit that the total requirement of Supervisors could not be filled as no Tradesmen became eligible. As such, the applicant could not get his promotion. They further submit that on the date of filing the reply one Foreman + 3 Senior Chargemen were already there on the borne strength and therefore they felt not necessary to have a second Foreman. They submit that 80% of the posts are to be filled up by departmental promotions and the balance by direct recruitment. They submit that two posts of Foreman and Chargeman were advertised in Special Recruitment Drive during the year 1989 and two candidates belonging to reserved community were selected on 20th November, 1989. They submit that only 3 Foremen and 4 Senior Chargemen have been recruited by direct recruitment and at present 1 Foreman + 3 Senior Chargemen are borne on the roster as on the date of filing of the O.A. Thus, they submit that none was eligible. They further submit that the G.T. department has to be manned only with the personnel trained on G.T. Trade. However, ICE Trade was almost close to G.T. Trade and as such Supervisors belonging to ICE/Engineering Trade etc. were employed initially to supervise the G.T. Tradesmen. While introducing the G.T. Trade, the quota of departmental promotees could not be filled immediately and as such Supervisors having G.T.

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knowledge and belonging to ICE/Engineering trades were employed. Further they submit the following points :

(i) No DPC was held to the Cadre of Foreman (GT) so far because sufficient number of juniors in the feeder grades were not available and even if they were available, the number of Tradesmen were insufficient. As such, DPC for Foreman(GT) in respect of departmental candidates could not be held.

(ii) Seniority list for Senior Chargeman (GT) was published lately under Personnel Department Note PIR/1916/TSS dated 7th January,1993 and the same was circulated to all work centres for the information of Technical Supervisory staff concerned with a specific request to come up with any grievances by 25th January,1993.

(iii) When no one in the feeder grades are entitled i.e. Tradesmen HSK-I and no vacancies released no DPC for Foreman (GT) was convened.

(iv) The requisite certificate is being endorsed in points roster for departmental promotees.

(v) As there is no sanctioned strength for G.T.Trade, there is no question of counting the vacancies caused on account of death/retirements. The resultant vacancy is being allocated based on the functional requirement of the Yard and the vacancies released accordingly. In order to maintain correct ratio amongst workers and supervisors, it may take another 4/5 years as Tradesman(HSK-I) are first to be elevated to Sr.Chargeman. As such, promotional avenues for Sr.Chargeman/Foreman remain same.

11. The respondents submit that the applicant cannot claim promotion from March,1986. They further submit

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that the name of the applicant will be considered by the DPC provided the vacancies for the post of Foreman(GT) are released by the Cadre Controlling Authority in view of the huge requirements. Thus they submit that the applicant is not entitled to any of the reliefs.

The respondents have produced the Selection proceedings and also the Roster Register maintained in the G.T. Department for promotion.

12. The grievance of the applicant is that even though he qualified himself by passing the departmental examination for consideration for promotion to the post of Senior Chargeman in the year 1986, his case has not been considered. He has quoted certain instances wherein two vacancies in the cadre of Foreman (GT) had arisen during the year 1986. He has also stated that as per rules, two Foremen are required to supervise the Tradesmen in the G.T. Department as the Tradesmen working in the department exceed 150. The method of promotion to the post of Foreman is 80% by promotion among the departmental candidates and the remaining by Direct recruitment. The ratio followed between the Tradesmen and the Supervisors is 1:7 and the ratio followed amongst the Supervisors is 1:2:6 i.e. Senior Foreman-1 : Foreman-2 : Senior Chargeman-6.

13. The tradesmen working in the Gas Turbine Department were for some time supervised by the Foremen of other Trades, viz., ICE/Engineering. The reason given by the respondents is that at that time no person had become eligible for consideration for promotion to the post of (G.T.) Foreman. Though the respondents admit that the vacancies arose during the year 1986, they submit that the Cadre Controlling Authority had not released the vacancies to fill up the same by promotion.

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14. The applicant is a directly recruited Senior Chargeman. He was recruited in the year 1982. The respondents have not taken the contention that the performance of the applicant was not upto the mark or his confidential reports were not clean. However, they submit that no departmental candidate had become eligible for promotion to the post of Foreman.

15. The applicant wants promotion to the post of Foreman in the G.T. Department. When the Tradesmen of G.T. Department have to be supervised by the Foreman of the similar trade, the respondents could not post a Foreman (GT) for want of eligible employee in the said Trade. It is admitted that the applicant was qualified for consideration for promotion to the post of Foreman(GT) in the year 1986. Even the applicant submits that during the year 1986, 2 posts of Foreman(GT) fell vacant on account of the resignation by Sri P.Vidyasagar during the year 1985 and on account of death of Sri T.V.V.S.Rao on 15th September, 1986. Thus he submits that during the year 1985 and 1986, 2 posts of Foreman(GT) were vacant and available for consideration of his case for promotion.

16. The other grievance of the applicant is that he was appointed in the year 1982. Thus he submits that for the last 16 years, he has been working in the same post without any chance of promotion. The department is not submitting that there is no promotional avenue for the applicant. But it submits that no eligible candidate was available for promotion. The fact that the G.T. Department was for certain period manned by the Foreman of ICE/Engineering Trades clearly indicates that the department failed to consider the case of the applicant when he was in the feeder category for promotion to the post of Foreman(GT). Moreover, he was directly recruited as Senior Chargeman in the Gas Turbine Department. Before bringing a Foreman of other Trade, the

department should have sincerely considered the case of the applicant for promotion as he was in the Gas Turbine Department. They should have considered and informed the applicant the result before bringing the Foreman from other Trade.

17. The respondents have produced the Roster Point Register maintained by them. It is upto 7.9.1993. They have adopted the 40 Point Roster for the direct recruitment to the cadre of Foreman. It is not known whether the same roster has been adopted for promotion to the post of Foreman from the feeder category i.e. Senior Chargeman. On perusal of this register, it is disclosed that the first point was reserved for S.C.candidate. The reserved post became vacant in the year 1982. At that time no candidate belonging to S.C.community was available either by direct recruitment or by promotion from the feeder category. Hence the same was carried forward and the said post was filled in 1989. That means, they carried forward the reserved post at Roster point No.1 for a period of nearly 7 years. According the Reservation Rules, if any post reserved for a particular reserved category and no candidate from the reserved category is available for immediate filling the post, then they have to carry forward the post atleast for a period of 3 calendar years. When the post arose in the year 1982 and no reserved candidate was available for filling up the said post, then they should have carried forward for 3 calendar years i.e. for 1983, 1984 and 1985. Thereafter the respondents could have filled up the post by an   
.....it is to be noted that the applicant had become eligible for promotion to the post of Foreman in the year 1986. The respondents could have considered the

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case of the applicant for promotion to the post of Foreman. They have not done so. They have not disclosed any valid reasons for the same.

18. If the department felt advisable to fill the post only by a reserved candidate and since they could not find a reserved candidate till 1989, the respondents could have atleast taken steps to fill the said post on ad hoc basis by an unreserved candidate. That means to say, the respondents could have considered the case of the applicant for promotion during the year 1986 on ad hoc basis subject to the condition of availability of a reserved candidate. Admittedly, the reserved candidate was available only in the year 1989. The reserved candidate was appointed against the Roster Point No.1 on 20.11.1989.

19. Admittedly the respondents have not conducted the D.P.Cs. regularly. The Hon'ble Supreme Court has time and again observed that the DPCs should be held annually and punctually. The respondents have given the explanation for not conducting the D.P.C. punctually and also during the year 1986. It is submitted that in Naval Dockyard, DPCs are held after some vacancies are available and not for each vacancy due to the administrative reasons. That means, they convene the D.P.C. when a number of vacancies are available. We feel that the procedure adopted by the respondents would affect the promotional chances of the employees who are expecting for promotion. This is an instance wherein the applicant was denied his promotion nearly for 12 years. Had they convened the DPC and considered the case of the applicant atleast immediately after the post fell vacant, they could have given some relief to the applicant. In our humble view, the

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respondents have denied the chance of promotion to the applicant without any valid reasons.

20. The respondents have produced the file containing SRO 291/83 relating to the Technical Supervisory Staff -SRO. The said file contains the method of recruitment to the post of Foreman and other related papers. We feel that the related papers are not relevant to the present case.

21. The respondents admit that the Foremen from other Trades were posted in the Gas Turbine Department even though the applicant was readily available in the said department. They have posted the Foremen from ICE/Entineering Trade to supervise the Tradesmen of the Gas Turbine Department.

22. Further the applicant contends that the strength of Tradesmen in G.T. Department has been increased and ---- should have been increased. The applicant submits that the strength of Tradesmen in the G.T. Department is at present 150; whereas the respondents submit that the present strength is 133. We will not go deep into this matter. No doubt, according to the strength and the ratio adopted i.e. 1:7, a Foreman in the G.T. Department is absolutely necessary. In our humble view the respondents should convene the D.P.C. immediately to consider the case of the applicant for promotion to the post of Foreman(GT).

23. In case the applicant is found otherwise  
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fixed from 13.9.1994 i.e. one year prior to the date of  
filing of this O.A. and the monetary benefits should be  
given to him only from the date when he shoulders higher  
responsibilities.

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24. Hence issue the following directions :-

(a) The respondents should convene the D.P.C. to consider the case of the applicant for promotion to the post of Foreman (G.T.).

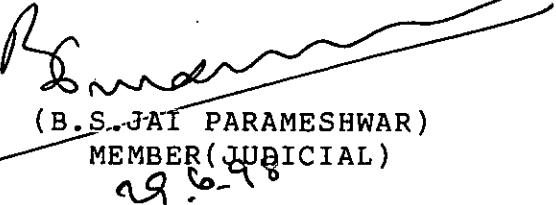
(b) In case the applicant is found eligible, then his pay in the cadre of Foreman (G.T.) should be notionally fixed with effect from 13.9.1994 i.e. one year prior to the filing of the O.A. and he should be given monetary benefits from the date he shoulders the higher responsibilities., and

(c) Time for compliance is 4(four) months from the date of receipt of a copy of this order.

25. With the above directions, the O.A. is disposed of, leaving the parties to bear their own costs.

The Roster Register and the necessary file are perused and returned to the respondents.

M.A.49/96 stands disposed of accordingly.

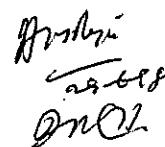
  
(B.S.JAI PARAMESHWAR)  
MEMBER(JUDICIAL)

29.6.98

  
( R. RANGARAJAN )  
MEMBER(ADMINISTRATIVE)

Dated the 29th June, 1998.

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Anil  
Anil  
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DA.1609/95  
MA.49/96

**Copy to :-**

1. The Secretary, Ministry of Defence Bhavan, New Delhi.
2. The Admiral Superintendent, Naval Dockyard, Visakhapatnam.
3. The Manager, Personnel, Naval Dockyard, Visakhapatnam.
4. The Manager, Gas Turbine Department, Naval Dockyard, Visakhapatnam.
5. One copy to Mr. K. Sudhakar Reddy, Advocate, CAT., Hyd.
6. One copy to Mr. K. Bhaskara Rao, CGSC., CAT., Hyd.
7. One copy to BSJP M(J), CAT., Hyd.
8. One copy to D.R.(A), CAT., Hyd.
9. One duplicate copy.

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II COURT

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B. S. JAI PARAMESHWAR :  
M (B)

DATED: 29/6/98

ORDER/JUDGMENT

M.A/R.A/C.P./NO. 49/98

in  
D.A. NO. 1609 (95) MD 48/98

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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