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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 221 OF 1996

Dated, the 30<sup>th</sup> November, '98.

BETWEEN :

1. G. Balavardhi Raju	9. S. Shafiulla
2. A. Wahab	10. EJS Jeevan
3. J.H. Surendra Nath	11. R. Buchaiah
4. I. Ravi Prasad	12. E. Deva Das
5. P. Malleesham	13. G. Rajasekara Naidu
6. Ch. Mallappa	14. P. Sudhakar Rao
7. T. Balaiah Naidu	15. N.V. Kutumba Rao
8. M. Chandra Sekhar	16. T. Jagadesshwar Rao

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.... Applicants

1. The Ordnance Factories Board,  
10A, Auckland Read,  
Calcutta, represented  
by Chairman-cum-Director General.
2. The General Manager,  
Ordnance Factory Project,  
Eddumailaram,  
Dist. Medak.

... Respondents

COUNSELS :

For the Applicants : Mr. P. Naveen Rao

For the Respondents : Mr. N. R. Devaraj

CORAM :

THE HON'BLE MR. H RAJENDRA PRASAD, MEMBER (ADMIN)

THE HON'BLE MR. B. S. JAI PARAMESHWAR, MEMBER (JUDL)

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O R D E R

( PER: HON'BLE B.S. JAI PARAMESHWAR, MEMBER(J)

1. On 6.11.98 we heard the Counsels and posted the O.A. for further hearing on 18.11.98. On 18.11.98 none of the Counsels was present. Since the O.A. was filed 2 years back, we were not inclined to adjourn the case any further and therefore posted the O.A. reserving for orders.
2. The application has been filed under Section 19 of the Central Administrative Tribunals Act, 1985.
3. The application was filed on 14.12.96.
4. There are 16 applicants in this O.A. They all claim to be holders of ITI Certificate and possess NAC in Machinist Trade. They were recruited as Machinists (Press Operator) in Semiskilled grades. They were appointed under the R-2 Factory between 18.8.89 and 15.3.90. They were subsequently promoted to skilled grade. Their service particulars are detailed in page 3 of the O.A.
5. They submit that they acquired specialisation in Machinist Trade during the year 1989. They submit that a person acquiring skill in Machinist Trade can operate the ~~Presses~~ and perform various other jobs such as Machine Operation, Machine Cutting, etc. They state that there is no distinctive trade called Press Operator.
6. They state that while the recruitment was under progress new rules called the Ordnance Factories Group 'C' and Group 'D' Recruitment Rules, 1989 was brought into force. These rules hereinafter referred to as "the Recruitment Rules, 1989." They submit that as per the Recruitment Rules 1989 Machinist Trade and Press Operator Trade were separate and distinct and certain Trades were placed in Annexure 'A' and Annexure 'B'. The Machinist Trade was included in Annexure 'A' whereas the

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the Press Operator was included in Annexure 'B'.

7. As per the Recruitment Rules SRO-18E, the persons working in Annexure 'A' required 2 years of service in semi-skilled trade to get the skilled Grade, whereas the persons employed in the Trades included in Annexure 'B' required 3 years of service in semi-skilled grade to acquire skilled Grade. They submit the distinction was brought on the basis of job requirement and qualification requirement for recruitment to semi-skilled grade. They submit that the inclusion of Press Operator in Annexure 'B' was by mistake. They site an instance where the Examiner Trade was included in Annexure 'B' was subsequently included in Annexure 'A'. On the same analogy, they state that the Press Operator was by mistake included in Annexure 'B'. They submit that assignment of skilled grade on completion of 2 years only was subject to the condition that they were required to pass the Trade Test. They submit that they possess ITI with an Apprenticeship for a period of one year. They submit that at the time of entry into the service under the R-2, the Press Operator Trade was non-existent as an independent trade and the same was merged and re-designated and Machinist Engineering; that on that score they submit that they should have been shown as Machinist Engineering in Annexure 'A'. They submit that the Ordnance Factory Board in its letter dt. 19.9.89 indicated that Trades and Grades detailed in letter dt. 28.7.89 should be operated. On this score also the applicants submit that inclusion of Press Operator in Annexure 'B' was a mistake and that they should be regarded for all practical purposes as Machinist Engineering. They submit that all the Trades included in Annexure 'A' as per SRO 18E are skilled grades on completion in semi-skilled grade of 2 years service/excepting the Machinist Engineering.

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As already observed the persons working in the Trades classified under Annexure 'B' are required to work for in Semiskilled Grade 3 years to acquire the skilled grade. They submit that questioning the said action certain examiners had approached this Tribunal in O.A.668/91. On 30.1.95 this Tribunal directed to upgrade the Examiners on completion of 2 years service in the semi-skilled grade to skilled grade. They submit that the directions of this Tribunal have been implemented by the R-2.

8. They submit that they made a representation to the respondent authorities in 1992 to accord upgradation to the skilled Grade on completion of 2 years. However, their representations were not considered. They were assured that they would consider the representations if they submit after their confirmation was done only during January, 1995 and probation as Machinist Engineering in skilled grade is separately declared on February, 1995. They submit that after disposal of the O.A.668/91 they made representation to upgrade them to the skilled grade on completion of 2 years. This representation is not yet considered.

9. Hence they have filed this O.A. to declare the action of the respondents in not granting the upgradation to skilled grade on completion of 2 years in semiskilled grade as arbitrary, discriminatory, unconstitutional, violative of Articles 14 and 16 of the Constitution of India and violating of Rules and orders on the subject and for consequential directions to advance the date of upgradation to Skilled Grade from the date of completion of two years of service in semi-skilled grade of Machinist Engineering with all consequential benefits.

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10. The respondents have filed their reply. It is their case that the applicants were originally appointed as Press Operators; that the Press Operator Trade and the Machinist Trade are two separate and distinct trades; that the applicants in order to mislead the Tribunal have <sup>de-</sup>scribed themselves as having been recruited as Machinists (Press Operator) and that the claim is false. They state that at the time of recruitment of the applicants as Press Operators vacancies of the post of Machinists, Press Operators, and Millers were filled. At no time the applicants were designated as Machinists; that the applicants accepted the post of Press Operator and hence <sup>that</sup> they were appointed as Press Operators, <sup>they are expected</sup> to operate only according to the specifications made for the post of Press Operator. They submit that the job of Machinist demands varied skills and only well trained workers in the Trade could meet the job requirements, while the Press Operator needs knowledge of operation of Presses only. They relied upon the Annexure-R1 and R2 in order to contend that the posts of Press Operator were already in existence even earlier to the Recruitment Rules, 1989. They relied upon Annexure-R2 to the reply. They have stated that the scales of pay of Machinist as well as the Press Operator are different. They submit that only a Machinist ~~can do~~ the Machining operations, whereas a Press Operator cannot do, although both Machinist and Press Operator can operate Presses ~~and~~ other Machines. Hence, the contention that there cannot be any distinction in the aforesaid two Trades is far from truth.

11. They submit that the Machinist Trade was listed in Annexure 'A' whereas the Press Operator Trade was included in Annexure-B. Qualification-wise the Trades were included in

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Annexure 'A'. It was only for persons with ITI/NAC qualifications and such qualification was not prescribed for the Trades included in Annexure 'B'. They submit that the incumbents of the Trades detailed in Annexure 'A' are eligible for promotion to the skilled grade after a minimum of 2 years of service and those incumbents of Trades included in Annexure 'B' are eligible for promotion to skilled grade after a minimum qualifying service of 3 years. They submit that the Press Operator is a skilled trade and like-wise there are about 123 Trades all of which are included in Annexure 'B'. They submit that inclusion of Press Operator Trade in Annexure 'B' has been done with specific knowledge and not by mistake as contended by the applicants. They submit that the Press Operator Trade was not included in 23 Common Category Skilled Trades and it was only the Trade of Machinist that was one of the 23 common skilled trades. In view of the said facts the Press Operator/Trade was not in one of the common category skilled trades unlike Machinist Examiner. Hence, the revised conditions of Trade included in Annexure A & B will apply to the Press Operator Trade.

12. They submit that it is the inherent right of the Govt. framing the recruitment rules. Hence prescribing certain service conditions for Press Operator Trades and inclusion of the said Trade in Annexure-B is not open to challenge. Press Operator Trade cannot be compared with the Examiner Trade. The directions given in O.A.668/91 are not applicable to the Press Operator Trade. The Press Operator Trade was included in Annexure-B at the time when the applicants entered into the service in R-2 Factory. Hence no departmental

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instructions can supersede the statutory order including the Press Operator Trade in Annexure-B. The service conditions included in the Recruitment Rules are the minimum conditions. Mere completion of the qualifying services does not render a person eligible to be promoted to the skilled grade. They submit that Examiner Trade was also one of the common category skilled jobs. Hence, they complied with the directions given in O.A.668/ of 1991 by this Tribunal and hence the applicants are not entitled to claim advancement to skilled grade on completion of 2 years in the semi-skilled grade. Thus the O.A. is liable to be dismissed.

13. The Recruitment Rules 89 were brought into force from 6.7.89. The applicants were appointed as is detailed in page 3 of the O.A. between August, 1989 to March, 1990. Therefore, the Recruitment Rules 1989 were already in existence at the time of appointment of the applicants as Press Operators in the R-2 Factory.

14. The applicants have not produced their letters of appointment to show that they were in fact appointed as M Machinist Press Operator as urged by them. The respondents in their reply denied the said fact and specifically stated that the Press Operator Trade was a separate and distinct Trade from the Machinist Trade. As already observed, the post of Press Operator was in existence even earlier to the Recruitment Rules 1989. Therefore, it cannot be said that the Press Operator Trade was included in the Machinist Trade. The contention of the applicants that they were initially appointed as Machinist (Press Operator) cannot be accepted. When the respondents specifically stated that the Machinist Trade and Press Operator Trade were separate and distinct Trades, they have not chosen to file any rejoinder even though the Learned Counsel for the applicants took time on 10.6.98 to go through the reply.

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15. After going through the reply if the amendments made by the respondents in the reply as regards the Machinist and Press Operator Trades, then the applicants were expected to produce the letter of appointment to the effect that they were appointed as Machinist (Press Operator).

16. The grievance of the applicants that the Press Operator Trade has been included in Annexure-B to the Rules. As per the service conditions, the incumbents of the posts of the Trades included in Annexure-B have to qualify themselves after working for a period of 3 years to become eligible to acquire the skilled grade. Whereas, an incumbent of the Trades included in Annexure-A to the Rules 1989 is required to work for a period of 2 years to become eligible for promotion to the skilled grade. As contended by the respondents inclusion of a particular Trade in a particular category and fixing certain norms and service conditions are left to the prerogative of the Government.

17. Therefore, they cannot challenge the inclusion of the Press Operator Trade in Annexure-B to the Rules. It also cannot be said to be discriminatory.

18. When the applicants were initially appointed to the Press Operator Trade, which is included in Annexure-B to the Rules, 1989 they have to prosper only in the said Trade after following the service conditions attached to the said Trade. They cannot claim any extra privilege for having possessed similar qualifications prescribed for the Trades included in Annexure-A.

19. In that view of the matter, we find absolutely no merits in this O.A. and the O.A. is liable to be dismissed.

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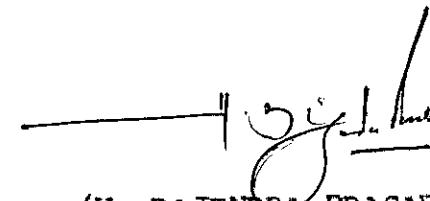
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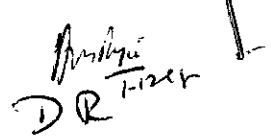
20. Accordingly, the O.A. is dismissed leaving the parties to bear their own costs.

  
(B.S. JAI PARAMESHWAR)  
MEMBER (JDG)  
30-11-98

  
(H. RAJENDRA PRASAD)  
MEMBER (A)

Dated, the

November, '98.

  
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Copy to:

1. The Chairman-cum-Directer General,  
Ordnance Factories Board,  
10A Auckland Road,  
Calcutta.
2. The General Manager, Ordnance Factory Project,  
Eddumailaram, Medak District.
3. One copy to Mr.P.Naveen Rao, Advocate,CAT,Hyderabad.
4. One copy to Mr.N.R.Devraj, Sr.CGSC,CAT,Hyderabad.
5. One copy to HBSJP,M(J),CAT,Hyderabad.
6. One copy to D.R(A),CAT,Hyderebad.
7. One duplicate copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

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

AND

THE HON'BLE SHRI S.S. JAI PARAMESHWARI :  
M(J)

DATED : 30/11/88

ORDER/JUDGMENT

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

in

C.A.NO. 24196

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

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