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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

DA. No. 822/1999

Date of order: 23-10-2000

Between:

1. B.Krishna Reddy
2. Ch.Srinivas Reddy.

...Applicants

And

1. The Ordnance Factories Board,
rep. by the Director General of
Ordnance Factories, 10-A,
Auckland Road, Calcutta.

2. The General Manager,
Ordnance Factory Project,
Ministry of Defence,
Govt.of India,
Eddmailaram, Dist Medak.

3. Durgaiyah,
- 4..A.Satyanarayana
5. K.Bhanu Murthy

..Respondents

Counsel for the Applicants - Mr.P.Kishore Rao Advocate

Counsel for the Respondents - Mr.B.Narasimha Sharma, Sr.CGSC

CORAM:

THE HON'BLE MR.R.RANGARAMAN : MEMBER (ADMN.)

AND

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

...

Order

(Per Hon'ble Mr.B.S.Jai Parameshwar, M(J))

Heard Mr.P.Kishore Rao, learned counsel for the applicant and Mr.M.C.Jacob for Mr.B.N.Sharma, learned standing counsel for the respondents. Notice served on Respondents 3 to 5 called absent.

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2. There are 2 applicants in this OA. They are presently working as Fitter (Electrical) skilled grade in the respondents factory.

3. The applicants are governed by the "Indian Ordnance Factories Group 'C' Supervisory and Non-Gazetted Cadre (Recruitment and Conditions of Service) Rules, 1989, amended in 1994.

4. The factory operates posts of Fitter ~~and Cable Jointer~~ in different trades. The posts of Fitter (Electrical) and Cable Jointer are separate and distinct.

5. As per the seniority list of Fitter (Electrical) skilled the applicants are at Sl. No. 10 & 11 respectively.

6. The respondents by the impugned order No. 300, dt. 10.2.98 (Annexure-III, page-16 to OA) redesignated the posts of Cable Jointer Highly skilled Gr. II and skilled as Fitter (Electrical) Highly skilled Gr. II and added a note to the effect that the above redesignation was ordered in the public interest and hence the incumbents of the posts of Cable Jointers in the existing Gr. II and skilled will carry their seniority in the existing grade on redesignation as Fitter (Electrical).^{Skilled and}

7. As a result the seniority of the applicants were brought down.

8. Earlier they had approached this Tribunal in OA. 156/99 decided on 20.9.99. In that OA respondents were directed to consider the representations of the applicants and till then the respondents 3 ^{to} and 5 should not be promoted.

9. Accordingly the respondent no. 2 by the order dt. 22.2.99 considered the representation of the applicants and informed as under:-

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"It is informed that since redesignation of the Cable Counters to Fitter (Electrical) has been done on public interest, they have carried their seniority from the erstwhile trade. In this regard you can refer SRO 183 of 1994 in the Col. No. 11 in the skilled workmen & note 4 wherein it is mentioned "By promotion after adjustment of surplus and transfer failing which by direct recruitment" and the word transfer includes transfer in public interest by the Management of persons already holding posts in the same or identical or nearly equivalent scale of pay in the same factory or office in the Ordnance Factory organization and also transfer within the same factory or office at the request of the person concerned where agreed to by the Management. The transfer in public interest will also include transfer of persons in the trades to be abolished or merged with other trades in administrative grounds."

10. Feeling aggrieved the applicants have filed this application for the following reliefs:-

" to call for the records to and connected with the Order No.07/034/LB, Labour Bureau, dt.22.2.1999 and Factory Order Part-II No.300, dt.10.2.1998 of the 2nd respondent and quash or set aside the same with a consequential direction to consider the claim of the applicants for promotion to H.S.Grade II as per the seniority assigned to them in the seniority list of Fitter (Electrical) published by the respondents without considering the claims of respondents 3 to 5. "

11. The applicants have challenged the order dt.22.2.99 and the redesignation order dt.10.2.98 on the following grounds:-

- (a) The impugned orders are illegal and arbitrary;
- (b) The impugned order dt.10.2.98 is without jurisdiction and competence of respondent no.2 as per the recruitment rules 1989 amended in 1994. There is no provision for redesignation of any sort ^{much less} ~~which~~ ^{of} redesignation by one trade by another trade. As per the notes appended to the recruitment rules it is only possible by justifying of surplus in one trade ⁱⁿ any other trade or by transfer but there is no provision for redesignation.

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(c) The post of Cable Jointer and Fitter(Electrical) exists independently in accordance with the recruitment rules.

(d) These posts are classified as per the recommendations of the committee constituted by the government to bring into the feasibility of merging of various trades, redesignation of trades and re-classification of various trades and grades basing on the job requirement, technical feasibility qualifications etc. The recruitment rules were issued on the basis of recommendations of the committee and the recommendations are clear of treating the Cable Jointer and Fitter(Electrical) as separate and distinct trades.

(e) It is not open to the 2nd respondent to redesignate the present trade of Cable Jointer with Fitter (Electrical) which is not within his powers to effect such redesignation. The contentions of the 2nd respondent that transfer of the respondents 3 to 5 to Fitter (Electrical) trade was in the public interest and that they were entitled to carry the seniority are illegal and discriminatory. They submit that the provisions under column no.11 of the recruitment rules and note 4 are not attracted to the facts of the case.

(f) On account of the impugned order dt.10.2.98 their rights and promotional prospects are affected without notice or opportunity. The seniority list having been published and become final, the respondents cannot bring outsiders into the Fitter (Electrical) trade and place them above the applicants without notice or opportunity. The action of the 2nd respondents in issuing the order dt.10.2.98 is arbitrary.

(g) They submit that the impugned order dt.10.2.98 was passed on the basis of the representation made by the respondents 3 to 5. When that is so there was no reason for providing them seniority in the Fitter (Electrical) trade. The transfer made on such a request cannot be treated as one in the public interest; and

(h) The cable Jointer and Fitter (Electrical) are two different distinct trades and no relationship whatsoever and hence the respondent no.2 could not have redesignated the Cable Jointers as Fitters (Electrical).



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12. The respondents 1 and 2 have filed the reply. They submit that the Fitter (Electrical) and Cable Jointer carry identical scales of pay. The respondent no.3 was promoted to Cable Jointer Highly skilled Grade in the scale of Rs.1200-1800 w.e.f. 12.7.95.

13. They admit that the Cable Jointer and Fitter (Electrical) are governed by the recruitment rules 1989 amended in 1994.

14. As per the recruitment rules the mode of promotion to higher grade is by promotion from panel prepared by the relevant OPC in each trade including allied trades after adjusting the surplus and transfers. They rely upon explanatory note no.4 for the word 'Transfer' occurring in Col. No.11 and 12 of the schedule to the rules. They have furnished the service particulars of the applicants of the respondents 3 to 5 (Annexure.R-1). They dispute the averment that promotions are required to be made within the same grade as per the recruitment rules. Promotions to any grade in the industrial establishment is permissible by transfer from the allied trades also. Though the Cable Jointer and Fitter (Electrical) are two different trades the nature of duties attached to these posts are comparable in nature and the Cable Jointer is an allied trade to that of Fitter (Electrical). Hence the contention of the applicants that both the posts have no relationship is not tenable.

15. They submit that the posts of Cable Jointer and Fitter (Electrical) belong to the Electrical Branch and the duties are comparable. Under the recruitment rules the industrial employees belonging to the allied trade can be transferred from one trade to another trade in the public interest within the powers of the General Manager. Admittedly the transfer of the respondents 3 to 5 from Cable Jointers to Fitter (Electrical)

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was done in the public interest to meet the functional requirements of the workers in the trade and the same has been notified while redesignating the respondents 3 to 5 by the impugned order dt.10.2.98. They rely upon notes no.8 and 9 in the schedule to the recruitment rules. They submit that when once a trade is merged with any other similar trade in the public interest the incumbents will carry their seniority in the parent trade. They state that the term redesignation denotes transfer from one trade to another allied trade. The respondents 3 to 5 were redesignated from Cable Jointer to Fitter(Electrical) in accordance with the recruitment rules.

16. They admit that the applicants and the respondents 3 to 5 were recruited in 2 different trades. The transfer from one trade to another trade in the public interest is permissible under the recruitment rules.

17. Thus the respondents justified the issue of impugned order dt.10.2.98 and submit that the representations of the applicants were suitably replied by the impugned letter dt. 22.2.99.

18. Thus they pray for dismissal of the OA.

19. They have produced the file No.37/34/LB F(E) SK.Gr.II.

20. When the OA came up for hearing on 24.8.2000 certain clarifications were sought from the respondents. Accordingly the respondents have filed an additional reply on 19.9.2000.

21. The applicants have filed the rejoinder to the additional reply. In the rejoinder they submit that by the impugned order dt.10.2.98 the 2nd respondent redesignated the respondents 3 to 5 as Fitter (Electrical). The respondents 3 to 5 were earlier working as Cable Jointers. The applicants submit that there is no provision in the recruitment rules to

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appoint to any post by the method of redesignation. Unless the respondents 3 to 5 are transferred in accordance with the recruitment rules, the question of redesignation does not arise. The method of redesignation is not covered under the relevant rules. The respondents had not informed the applicants of any decision to merge the Cable Jointers with the posts of Fitter (Electrical). The respondents 1 & 2 have not placed any material to establish that the Cable Jointers and Fitters(Electrical) are analogous posts and merger is possible in the case of analogous posts of some or similar duties and responsibilities. The duties and responsibilities of Cable Jointers cannot be compared with the duties and responsibilities of Fitters(Electrical). Though both the posts carry identical scale of pay there was no reason for redesignating the respondents 3 to 5 in the public interest. The applicants deny that the posts of Cable Jointers had no carrier progression. The respondent no.3 was working as Cable Jointer Highly skilled Gr.II w.e.f. 12.10.95 therefore it is not correct to state that carrier progression of Cable Jointers was limited.

22. The learned counsel for the respondents produced the concerned file wherein the respondents issued the impugned order dt.10.2.98 and the letter dt.22.2.99.

23. The main grievance of the applicants is that the respondent no.2 could not have issued the impugned order dt. 10.2.98 redesignating the Cable Jointers as Fitters(Electrical). According to the applicants the posts of Cable Jointer and the posts of Fitters(Electrical) are different and distinct. The applicants are appointed in Fitters(Electrical) trade whereas the respondents 3 to 5 were appointed in the Cable Jointers trade.

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24. The posts of Cable Jointers and Fitters (Electrical) carry the identical scale of pay. It is well accepted principle that the respondents can merge the posts having regard to the nature of duties and responsibilities and other aspects. The impugned order dt.10.2.98 is at Annexure III (page-16) to the OA.

25. On perusal of the file, it revealed that the respondent Factory considered possibilities of merging the Cable Jointer trade with Armature Winder, Switch Board Attendant, Electrician and Wireman etc. However, on 7.2.98 they took decision to merge the Cable Jointer trade with Fitter (Electrical) trade. Accordingly the impugned order dt.10.2.98 has been issued.

26. The applicants feel aggrieved at the action of the respondents. They submit that as a result they were brought down in the seniority list and no opportunity was afforded to them.

27. To rebut this contention the respondent have furnished the service particulars of the applicants and the respondents 3 to 5. It is at Annexure R-1 to the reply. On perusal it is disclosed that the applicants are juniors to the respondents 3 to 5. When that is so, there cannot be any grievance to the applicants. The applicants have not disputed the said service particulars.

28. Further the respondents have justified their order dt.10.2.98 in accordance with the Rules 1989. They relied on notes No.4 and 8 in the schedule to the rules 1989. The word "redesignation" has to be understood in the context of the word "transfer" appearing in the recruitment rules.

29. The respondents submit that the Fitter (Electrical) trade and Cable Jointer trade come in the Electrical department



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and that their duties and responsibilities are comparable. It is to be noted that both the trades are having identical scales of pay. We do not find any fault with the respondents in redesignation of the posts of Cable Joiner.

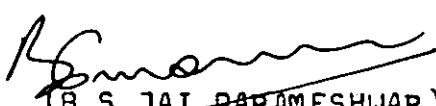
30. As per the directions in OA.156/99 the respondents have replied the representations of the applicants, explaining the rule position.

31. There are no reasons to interfere with the action of respondents. Their action is in the interest of the industrial employees.

32. Hence we find no merits in the OA.

33. Accordingly the application is dismissed. No costs.

34. The File bearing No.07/34/LB, is perused and returned to the respondents.


(B.S.JAI PARAMESHWAR)
Member (Judl.)
23.10.2000

'SA'

Dated: 23 October, 2000


(R.RANGARAJAN)
Member (Admn.)


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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD

COPY TO:-

1ST AND 2ND COURT

1. HONM~~O~~ TYPED BY / CHECKED BY
COMPARED BY APPROVED BY

2. HON:MEMBER : (ADMIN)

THE HON'BLE MR JUSTICE DH:NASIR
VICE-CHAIRMAN

3. HON:MEMBER : (JUDL)

THE HON'BLE MR R.RANGARAJAN:MEMBER
(ADMIN)

4. D.R. (ADMIN)

THE HON'BLE MR. BS. JAI PARAMESHWAR:

5. SPARE

THE HON'BLE MR. BS. JAI PARAMESHWAR:

6. ADVOCATE

MEMBER (JUDL)

7. STANDING COUNSEL

DATE OF ORDER 23/10/2000

MR/RA/CP.NO.:

IN

CA.NO. 822/99

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER / REJECTED

NO ORDER AS TO COSTS

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal
संलग्न / DESPATCH

- 1 NOV 2000

HYDERABAD BENCH