

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Applications No 855 of 2004

Jabalpur, this the 16 day of September, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

1. Arun Kumar Garg
S/o Shri Kashi Prasad Garg
Date of birth-5.7.1967
R/o 1882 Type-I, Sector-II
VFJ Estate, Jabalpur
2. Daya Kishan Pandey
S/o Shri Dharmanand Pandey
Date of birth – 10.5.1967
R/o C/o 393/3-Q Type
East Land, Khamariya Jabalpur.
3. Rollen Hemant Joshi
S/o Late H.J. Joshi
Date of birth 4.7.1967
R/o HIG-6, JDA Colony
Bajnamath, Nehru Nagar
Jabalpur.

Applicant

(By Advocate –Shri S.Paul)

V E R S U S

1. Union of India
Through its Secretary
Ministry of Defence,
New Delhi.
2. The Chairman,
Ordnance Factory Board,
10-A, Shahid Khudiram Bose Marg
Kolkata.
3. The General Manager
Ordnance Factory Khamaria,
Jabalpur.

Respondents

(By Advocate – Shri S.P. Singh)

[Signature]

ORDER

By Hon'ble M.P. Singh, Vice Chairman -

By filing this Original Application, the applicants have sought the following main reliefs :-

“(ii) Set aside the impugned order dated 15.9.2004 Annexure A-1 and the order dated 28.9.2004 Annexure-A-2.

(iii) Consequently command the respondents to provide all consequential benefits to the applicants as if the aforesaid impugned order dated 15.9.2004 Annexure A-1 and the order dated 28.9.2004 Annexure A-2 are never passed.”

2. MA No.1211/2004 filed under Rule 4(5) (a) of Central Administrative Tribunal (Procedure) Rules, 1987 for permitting the applicants to file joint application, is considered and allowed.

3. The applicants, three in number, were initially appointed as Wireman (semi skilled) in the pay scale of Rs.2650-4000 w. e. f. 9.1.1998. After passing the competency test, they were promoted as Wireman (skilled) in the pay scale of Rs.3050-4590 w. e. f. 29.5.2000. The respondents passed orders on 4.12.2003 and 4.3.2002 (Annexures-A-4 & A-5) re-designating the Wireman (skilled) as Electrician (Skilled). The aforesaid orders were passed in administrative exigency and in public interest. It was also mentioned in the orders that since the re-designation was in the same pay scale/ grade, they will carry the same pay scale on their resignation. They were again subjected to another competency test before becoming Electrician (Highly Skilled) in the pay scale of Rs.4000-6000 w. e. f. 24.12.2003. Thereafter, the respondents have passed the impugned order dated 15.9.2004 (Annexure-A-1) whereby their promotion as Electrician (Highly Skilled) was cancelled, and their seniority is not fixed from the date they became Electrician (Highly Skilled). Thereafter vide another

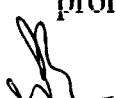


impugned order dated 28.9.2004 (Annexure-A-2) the respondents have re-fixed the pay of the applicants consequent to their reversion. Hence this Original Application.

4. The respondents in their reply have stated that the applicants have been re-designated as Electrician (Skilled) on public interest w. e. f. 2.12.2003/4.3.2002 from the grade of Wireman (skilled). On reviewing the case of promotion in respect of the applicants, it was found that the applicants had not fulfilled the eligibility criteria for promotion to Electrician (Highly Skilled) grade. Hence, their promotion to the post of Electrician (Highly Skilled) grade has been cancelled maintaining the seniority position as on 2.12.2003 and 4.3.2002 vide order dated 15.9.2004. It is further mentioned by the respondents that when an individual appearing in a trade test and is promoted in his own interest to a different trade, he would not have the benefit of his seniority in earlier trade/grade. Further, it is submitted by the respondents that the Ordnance Factory Board vide circular dated 23.4.2002(Annexure-RJ-2) has clarified the eligibility criterion of Highly Skilled Grade-II. The Ordnance Factory Board has carefully examined the matter in consultation with the Controller of Safety, Ordnance Factory Board and clarified as under:

“It is opined that the Wireman Skilled may be considered as one of the allied trades and industrial employees in Wireman Skilled trade possessing Competency Certificate for Electrician Skilled may be allowed to appear for the Competency Test of Electrician Highly Skilled-II provided such individuals have rendered minimum 3 years service in the skilled grade and have experience of working on live lines and motor controls after obtaining the Competency Certificate/license of Electrician Skilled”.

The respondents have further submitted that from the above clarification it is inferred that “there are two aspects- (i) Competency test – for competency test of Highly Skilled-II, Wireman Skilled with Electrician Skilled competency of 3 years will be eligible for appearing and (ii) Promotion – But for promotion, once Wireman Skilled is re-designated to Electrician



promotion, once Wireman Skilled is re-designated to Electrician Skilled, he will be junior to the present Electrician Skilled and will get promotion when his senior will be promoted." In view of these submissions, the respondents have submitted that the present O.A. is liable to be dismissed.

5. Heard the learned counsel of both the parties.
6. The learned counsel for the applicant has submitted that the applicants were working as Wireman Skilled in the pay scale of Rs.3050-4590. They have been placed in the grade of Electrician Skilled vide orders dated 4.12.2003 and 4.3.2002 (Annexures-A-4 and A-5) in public interest and they were given the seniority in the Skilled Grade of Electrician from 29.5.2000. They have also passed the Competency test for promotion to Electrician (Highly Skilled) Grade and they were rightly promoted as such w.e.f. 24.12.2003. The learned counsel has also drawn our attention to column 12 of the recruitment rules (Annexure-A-9) which provides as under :

"Promotion: By Departmental Promotion Committee from persons in the Skilled grade in the pay scale of Rs.950-20-1150-EB-25-1500 in the same trade with a minimum regular service of 3 years in the grade on passing trade test".

The learned counsel has submitted that the applicants were granted seniority in the grade of Electrician Skilled w. e. f. 29.5.2000 and, therefore, they had completed the requisite three years services in the grade of Electrician Skilled at the time of their promotion as Electrician (Highly Skilled) in the pay scale of Rs.4000-6000 w. e. f. 24.12.2003. Therefore, there was no ground for the respondents to pass the impugned orders while canceling their promotion order to HS Grade and reverting them to lower grade.

7. On the other hand, the learned counsel for the respondents has submitted that the applicants have been inducted in the grade of Electrician (Skilled) w.e.f. 2.12.2003 and, therefore, they have not completed three years service in the grade of Electrician Skilled, and were not eligible for promotion to Electrician (Highly



considered for Highly Skilled Grade after three years of passing the trade test.

8. We have given careful consideration to the arguments advanced on behalf of both the parties. We find that after passing the competency test of Wireman (Skilled), the applicants were working as Wireman Skilled from 29.5.2000. They were re-designated as Electrician (Skilled) w.e.f. 2.12.2003/ 4.3.2002. They were allowed the seniority of Wireman (Skilled) in the grade of Electrician (Skilled) from 29.5.2000. They have also passed the competency test for promotion to Electrician (Highly Skilled) in 2003 and have also been promoted to the post of Electrician (Highly Skilled) vide order dated 24.12.2003. We further find from the recruitment rules dated 28.7.1989 (Annexure- A-9) that the posts from semi-skilled to H.S.Gr.II are filled up after holding the trade test and oral examination. Column 12 of these recruitment rules provide as under :

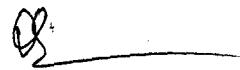
“Promotion: By Departmental Promotion Committee from persons in the Skilled grade in the pay scale of Rs.950-20-1150-EB-25-1500 in the same trade with a minimum regular service of 3 years in the grade on passing trade test”.

We also find that the applicants have been re-designated in public interest. This fact, has also been mentioned by the respondents themselves in para 3 of their short reply. In para 3 the respondents have stated that “the petitioners have again passed the Competency Test of Electrician (Skilled) and the petitioners were again re-designated to Electrician (Skilled) on public interest. Petitioner No.1 was accordingly re-designated from Wireman (Skilled) to Electrician (Skilled) w.e.f. 02.12.2003 and the petitioners No.02 and 03 were re-designated from Wireman (Skilled) to Electrician (Skilled) w.e.f. 04.03.2003”. Thus, it is an admitted fact that the applicants have been re-designated as Electrician (Skilled) in public interest after passing the requisite competency test, and possess all requisite qualification. They have also passed the required competency test for promotion to HS Grade-II and they



have been considered and were eligible in accordance with the recruitment rules. There is no ground to cancel their promotion order. The respondents have failed to produce any document whereby it could be established that the applicants were not eligible for promotion to HS Grade-II or were promoted out of turn or were not in the zone of consideration and did not possess the requisite qualification. In the conspectus of these facts, the impugned orders passed by the respondents are not sustainable in the eye of law.

9. In the result, the Original Application is allowed. The impugned orders dated 15.9.2004 (Annexure-A-1) and 28.9.2004 (Annexure-A-2) are quashed and set aside. The respondents are directed to grant all consequential benefits to the applicants within a period of three months from the date of communication of this order. The interim order passed earlier is made absolute. No costs.

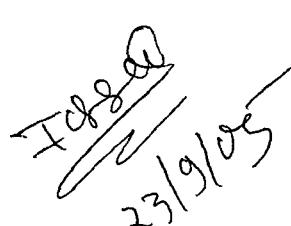

(Madan Mohan)
 Judicial Member


(M.P. Singh)
 Vice Chairman

Rkv.

पूळांकन सं ओ/न्या.....जवलपुर. दि.....
 य तिटिपि अचो लित:—
 (1) सचिव, उच्च न्यायालय बार एसोसिएशन, जवलपुर
 (2) अकेश्वर श्री/श्रीमती/कु.....के काउंसल Shri S. Raval 24.10.2005
 (3) प्रसारी श्री/श्रीमती/कु.....के काउंसल Shri SP Singh
 (4) वायायाल, को.प्र.अ., जवलपुर न्यायपीठ
 सूचना एवं आवश्यक कार्यकाली देतु

23-9-05
 उप रजिस्ट्रार


 23/9/05