

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.3589/2013

Tuesday, this the 12th day of January 2016

Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Dr. Birendra Kumar Sinha, Member (A)

1. Suresh Kumar s/o Mr. Teeka Ram
Working as Assistant Store Keeper
VSBTC Pusa, New Delhi
2. Jadish Kumar s/o late Mr. Babu Lal
Working as Assistant Store Keeper
ITI, Nand Nagari, New Delhi
3. Anil Kumar s/o late Mr. Pyare Lal
Working as Store Keeper
ITI, Pusa, New Delhi
4. Sunil Dutt,
Working as Assistant Store Keeper
ITI, Arab Ki Sarai, New Delhi
5. Surender Prakash
Working as Store Keeper
ITI, Narela, New Delhi
6. Karam Singh s/o Mr. Nathu Ram
Working as Assistant Store Keeper
ITI, Arab Ki Sarai, New Delhi
7. Arvind Singh s/o late Mr. Jaipal Singh
Working as Assistant Store Keeper
ITI, Mori Gate, Delhi
8. Arun Kumar s/o late Mr. H C Mudgal
Working as Store Keeper
SCVR, ITI, Delhi
9. Ramesh Kumar s/o Mr. Ram Kala
Working as Assistant Store Keeper
ITI, Jahangirpuri, Delhi
10. Ishwar Singh s/o Mr. Jugal Kishore
Working as Assistant Store Keeper
ITI, Tilak Nagar for woman, New Delhi

11. Rajinder Kumar s/o Mr. Godha Ram
Working as Store Keeper
ITI, Jail Road
Tilak Nagar, New Delhi
12. Jitender Kumar
Working as Assistant Store Keeper
ITI, Hastal, New Delhi
13. M S Pathania s/o late Mr. Man Singh Pathania
Working as Assistant Store Keeper
ITI, Malviya Nagar, New Delhi
14. Pushpa Bora s/o late Mr. Dev Singh
Working as Assistant Store Keeper
ITI, Siri Fort, New Delhi
15. Vijay Kumar Narula
Working as Store Keeper
ITI, Siri Fort, New Delhi
16. Baban Mahto s/o Mr. Jag Lal Mahto
Working as Assistant Store Keeper
ITI, Vivek Vihar (Woman), New Delhi
17. Satyaveer Singh s/o late Mr. Jagan Singh
Working as Assistant Store Keeper
ITI, Shahdara, New Delhi
18. Arvind Kerketta s/o Mr. Joachim Kerketta
Working as Assistant Store Keeper
ITI, H J Bhabha
Mayur Vihar, New Delhi

..Applicants

(Nemo)

Versus

1. Govt. of Delhi
Through Chief Secretary
Delhi Secretariat, IP Estate
New Delhi-2
2. The Principal Secretary
Directorate of Training & Technical Education
Muni Maya Ram Marg, Pitam Pura
Delhi-88

..Respondents

(Mrs. Rashmi Chopra, Advocate)

O R D E R (ORAL)

Mr. A.K. Bhardwaj:

The prayer made in the present Original Application under Section 19 of the Administrative Tribunals Act, 1985 reads thus:-

“(i) Direct the Respondents to declare the posts in store staff i.e. Asst. Store Keeper, Store Keeper and Store Superintendent working in the Industrial Training Institute, in Delhi as “technical”, as per the norms and guidelines of DGE&T,

(ii) Direct the Respondents to remove the discriminations and anomalies by making the post of Store Staff in ITI’s in Delhi, interchangeable with the stream of Craft Instructors in ITI’s in Delhi, so that the store Staff have similar, if not more, promotional avenues as compared to their own assistants i.e. Store Attendants,

(iii) Direct the Respondents to subsequently initiate the related action in regard to changes in Recruitment Rules, promotion rules, pay scale and pay band as has been made in their own memorandum dated 13-01-2010, which was later withdrawn by impugned order,

(iv) Direct the Respondents to pay the cost of litigation.

(v) To pass any further orders or directions as this Hon’ble Tribunal deems fit and proper in the interest of justice.”

2. The stand of the applicants in the Original Application is that since in certain other Departments the store staff is interchangeable with certain other categories, the practice should be resorted in the respondents-organization also. The emphasis on various grounds pervaded in paragraph 5 A to J is that the duties and responsibilities of Assistant Store Keeper and Store Keeper are technical in nature, thus they should be compared with the Craft Instructors. According to them, since the respondents themselves had granted technical status to the applicants, their action in not treating the store staff working under respondent No.2 as training staff is against the provisions of the Training Manual for Industrial Training Institutes. It is also the plea of the applicants that their counterparts in other streams in

ITIs and other Institutes in DGE&T are treated differently, thus there is violation of Articles 14 and 16 of the Constitution of India.

3. Mrs. Rashmi Chopra, learned counsel for respondents submitted that the store staff and the Craft Instructors in ITIs are two different streams having their separate promotional avenues. According to her, there are certain yardsticks, which need to be satisfied before making provision of interchangeability of the posts, i.e., a post should be in the same pay scale / grade pay, duties and responsibilities of the post should be similar and the educational and technical qualifications for the same should be identical. According to her, none of the conditions are satisfied in the present case, as insofar as the post of Store Keeper is concerned, the same is not the feeder channel to the post of Craft Instructors etc. As per Recruitment Rules, the only feeder post of Craft Instructors etc. is the post of Workshop Attendant. Relevant excerpt of the reply filed by the respondents wherein such stand is taken reads thus:-

“Regarding the claim of the applicants (Store Staff) to make their post interchangeable with the stream of Craft Instructors in ITIs Delhi, it is stated that there are two different promotional hierarchies one for Store Staff and other for Craft Instructors etc. A copy of the hierarchies of the store staff and Craft Instructors etc. are attached as Annexure ‘C’ (Colly.)

From the hierarchies, it is evident that all the posts under hierarchy -1 i.e. Store Staff are non technical in nature and whereas the posts under hierarchy -2 i.e. Craft Instructors etc. are technical in nature. Interchangeability of posts is only possible in the following circumstances:

- i) Posts should be in the same pay scale / grade pay.
- ii) Duties and responsibilities should be similar.

iii) The Educational and Technical Qualifications should be same.

It is submitted that in the case of Store Staff none is similar. Therefore, the technical & non technical posts cannot be made interchangeable. Hence the claim of Store Staff is untenable. In so far as the post of Store Attendant is concerned, it is stated that this post is not in the feeder channel to the post of Craft Instructors etc. as per RRs as the only post in the feeder channel of the post of Craft Instructors etc. is the post of Workshop Attendant. Workshop Attendants get promotions to the post of Craft Instructors because they are attached in the workshops to look after / maintain the machinery and equipments meant for training and after acquiring a technical experience of 16 years in the concerned trade provided they are in possession of technical Qualification i.e. a certificate of NCVT/SCVT in the concerned trade. It is further stated that though the seniority list of Workshop attendants and Store Attendants was / is common and both the posts were isolated posts till 1993-94. It was only in 1993-94 the post of Workshop Attendant was included in the feeder channel of the post of Craft Instructors etc. by amending the then existing RRs (with the notification F.2(11)/75-S-II dated 30-01-1976) but the post of Store Attendant was / is isolated till date. The post of Store Attendant is not in the feeder channel of Craft Instructors etc even as on date. Hence, the claim of the applicants is wrong and cannot be acceded to.”

4. We heard the learned counsel for respondents. Nobody appeared on behalf of the applicant, thus the Original Application is taken up for disposal in terms of Section 15 (1) of CAT (Procedure) Rules, 1987.

5. The merger of categories and interchangeability of the posts is a policy decision and need to be taken by the user Department in the best interest of the Organization and judicial interference in such matters is not permissible. In **S. P. Shivprasad Pipal v. Union of India & others**, (1998) 4 SCC 598, Hon’ble Supreme Court held thus:

“Under Article 309 of the Constitution the legislature is empowered to regulate the recruitment and conditions of service of persons appointed to public post in connection with the affairs of the union or State. The proviso to Article 309, however, empowers the President, in the case of services and posts in connection with the affairs of the union to make rules regulating the recruitment and conditions of services of persons appointed to such services and posts

until provision in that behalf is made or under an Act of the appropriate legislature. The power to regulate recruitment and conditions of service is wide and would include the power to constitute a new cadre by merging certain existing cadres.”

6. However, when different cadres are merged certain principles have to be borne in mind. These principles were enunciated in the case of **State of Maharashtra & another v. Chandrakant Anant Kulkarni & others**, 1982 1 SCR 665 (at page 678) while considering the question of integration of government servants allotted to the services of the new States when the different States of India were reorganised. The Apex Court cited the principles, which had been formulated for effecting integration of services of different States. These principles are: In the matter of equation of posts, (1) where there were regularly constituted similar cadres in the different integrating units the cadres will ordinarily be integrated on that basis but (2) where there were no such similar cadres, the following factors will be taken into consideration in determining the equation of posts:-

- (a) Nature and duties of a post;
- (b) Powers exercised by the officers holding a post the extent of territorial or other charge held or responsibilities discharged;
- (c) The minimum qualifications, if any, prescribed for recruitment to the post and;
- (d) the salary of the post.

7. In view of the aforementioned, we do not find any merit in the Original Application and the same is accordingly dismissed. No costs.

(Dr. Birendra Kumar Sinha)
Member (A)

(A.K. Bhardwaj)
Member (J)

January 12, 2016
/sunil/