

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO. 170/01000/2016

DATED THIS THE 22ND DAY OF AUGUST, 2017

HON'BLE SHRI JUSTICE HARUN-UL-RASHID...MEMBER (J)
HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

Pankaj Sadashiv Tale,
Aged about 28 years,
S/o Sadashiv D. Tale,
Working as Millwright Fitter,
At Naval Ship Repair Yard,
Naval Base,
Karwar – 581 308.
R/at : C/o. Mapasekar House,
Maruti Galli, Near Bus Stand,
Karwar, Uttara Kannada.

... Applicant

(By Advocate Shri P. Kamalesan)

Vs.

1. Union of India,
Rep. by Secretary,
Ministry of Defence (Navy)
New Delhi – 110 001.

2. The Flag Officer,
Commanding in Chief,
Head Quarters,
Western Naval Command,
Sahid Bhagath Singh Marg,
Mumbai-400 001.

3. The Flag Officer,
Commanding – HQ
Karnataka Naval Area,
Naval Base,
Karwar-581 308.

4. The Commander Suptd.,
Naval Ship Repair Yard,
Naval Base,
Karwar-581 308.

... Respondents

(By Shri. M.V. Rao, Senior Panel Counsel)

ORDER (ORAL)HON'BLE PRASANNA KUMAR PRADHAN, MEMBER (A):

The applicant has filed the present OA seeking the following relief:

(i) Quash the letter No. NSRY/P&A/0232/CEO/Rest Dtd: 28.10.2016 issued by Naval Ship Repair yard, Naval Base, Karwar – 581 308, reverting the applicant from HSK-II to Millwrigh Fitter as for the applicant is concerned – Annexure-A6.

2. According to the applicant, he was appointed as Millwrigh Fitter at Naval Base, Karwar with effect from 19.03.2009. Government of India issued order for recruiting of cadre of Artisan staff in Defence and Establishments vide letter dated 14.06.2010 and according to which cadre restructuring should be implemented in all the establishments in the Navy (Annexure-A1). The Defence Directorate had also issued operative instructions to implement the cadre restructuring of Artisan staff in the Indian Navy vide letter dated 25.06.2012 (Annexure-A2). The Headquarters Karnataka Naval Area, Naval Base Karwar vide order dated 08.06.2015 (Annexure-A3) issued order for restructuring of Artisan staff in the Naval Base. Thereafter in accordance with the recommendation of the Board, the applicant was promoted as HSK II in the payscale of Rs.5200-20200 with grade pay of Rs.2400 with effect from 13.08.2009 vide letter dated 29.06.2015 (Annexure-A4). However vide letter dated 28.10.2016 (Annexure-A6) he was reverted from the HSK Grade II to original post of Control Fitter with effect from 13.08.2009 (Annexure-A6). According to the applicant, the said order of reversion was issued without any show cause notice and without affording any opportunity to the applicant to defend himself which is against the principles of natural justice. He was in the zone of promotion according to the conditions prescribed for promotion

according to the ratio prescribed by the Ministry of Defence for cadre restructuring. Therefore the reversion order is illegal and cannot be sustained.

3. During the hearing the learned counsel for the applicant mentioned that similar case of reversion of persons without any notice was considered by the Tribunal in OA No. 170/01003/2016 and the reversion order was quashed. Since the applicant is similarly placed, he is entitled to similar relief. Shri M.V. Rao, learned counsel for the respondents, admitted that fact that no notice was issued to the applicant before the reversion and the case of the applicant is similar to the applicant in OA No. 170/01003/2016.

4. In OA No. 170/01003/2016 this Tribunal vide order dated 28.07.2017 passed the following order:

“ Heard. The matter seems to be covered by the decision of the Hon’ble Apex Court in Union of India vs. Zorawar Singh and Jagadish Prasad reported in (1982) 1 SCC 421, that the effect of the decision is, once a person is promoted regularly, later on found that promotion cannot lie for any reason, notice have to be issued to him and he must be given a chance of being heard before a decision is taken.

2. *Shri M.V. Rao, learned counsel for the respondents admits that no notice had been issued to the applicant before they were reverted.*

3. *Therefore, the reversion is hereby quashed. But then, we will grant liberty to the respondents to issue notice to the applicant and pass appropriate orders as the case may be in accordance with law.*

4. *OA is disposed of. No order as to costs.*

5. It is evident that prior to reversion of a person who was given regular promotion, he ought to be issued a show cause notice and given a chance to represent against the proposed reversion. Failure to do so would amount to denial of natural justice. Therefore in the light of decision earlier taken by this Tribunal in OA No. 170/01003/2016, we hold that the reversion order dated

28.10.2016 which has been issued without any show cause notice and without providing an opportunity of being heard cannot be sustained and therefore the same is quashed. However the respondents shall be at liberty to take appropriate action, if so decided, after issuing notice to the applicant seeking his representation if any and then decide the matter in accordance with the law.

6. The OA is disposed of accordingly. No order as to costs.

(P.K. PRADHAN)
MEMBER (A)

(JUSTICE HARUN-UL-RASHID)
MEMBER (J)

Ksk

Annexures referred to by the applicant in OA No. 170/001000/2016

Annexure-A1: Copy of Government of India, Ministry of Defence letter No. 11(5)/2009-D (Civ.I) dated 14.06.2010.

Annexure-A2: Copy of letter No. CP/NG/3008/DCP/ENC dated 25.06.2012 from Integrated Headquarters, Ministry of Defence (Navy) Directorate of Civilian Personnel, New Delhi

Annexure-A3: Copy of Headquarters Karnataka Naval Area, Naval Base, Karwar letter No. CS/4200/FOK/RESTRUCTURING dated 08.06.2015.

Annexure-A4: Copy of NSRY, Naval Base, Karwar letter No. NSRY / P&A / 0232 /CEO / REST dated 29.06.2015.

Annexure-A5: Copy of sanctioned strength of Artisan staff Naval Base, Karwar and restructuring of Artisan staff as per rationalization of trade structure-2006.

Annexure-A6: Copy of NSRY, Naval Base, Karwar letter No. NSRY / P&A / 0232 /CEO / REST dated 28.10.2016

Annexure-A7: Copy of representation of the applicant dated 02.11.2016 addressed to Commander Superintendent, Naval Ship Repair Yard, Karwar.