

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BENGALURU**

ORIGINAL APPLICATION NO.170/000181-198/2018

DATED THIS THE 22ND DAY OF JANUARY, 2019

**HON'BLE DR.K.B.SURESH
HON'BLE SHRI C.V. SANKAR**

**...MEMBER(J)
...MEMBER(A)**

1. P. Chander,
S/o M. Papaiah,
Aged about 50 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

2. S. Mahesh,
S/o Shankarappa,
Aged about 47 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

3. N. Bayalappa,
S/o Narayanappa,
Aged about 50 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

4. G. Krishnaswamy,
S/o V. Gopal,
Aged about 47 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

5. T.S. Mukesh,
S/o Thagaraj,
Aged about 47 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

6. H.S. Srinivas,
S/o late Siddappa,
Aged about 47 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

7. T. Basavaraju
S/o late G. Thannaiah,
Aged about 47 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

8. J. Nagesh,
S/o late Javaraiah,
Aged about 48 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

9. Lokesh,
S/o Poojari,
Aged about 41 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

10. M. Srinivas,
S/o Mallaiah,
Aged about 42 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

11. M. Mahesh,
S/o Mahadevappa,
Aged about 37 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

12. M. Hari Kumar
S/o late P. Muniswamy,
Aged about 45 years,

Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

13. N. Manjunath,
S/o late V. Nanjundappa,
Aged about 43 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

14. Arun Pitagi,
S/o late Nemanna
Aged about 32 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

15. M. Chandrashekhar,
S/o late Mayanna,
Aged about 46 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

16. Smt. Shanthamma,
W/o Raju, Aged about 41 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

17. Smt. Venkatachalamma,
W/o late Dhanapal,
Aged about 47 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

18. Smt. Thangamani
W/o M. Anbu, d about 48 years,
Working as Mate (SSK),
O/o Garrison Engineer (Maintenance)
Air Force, Jalahalli, Bangalore – 13.

..Applicants

(By Advocate Shri M. Subramanya Bhat)

Vs.

1. Union of India
Through its Secretary
Ministry of Defence,
Central Secretariat,
New Delhi – 110 001

2. Engineer in Chief,
Engineer in Chief's Branch,
Army Head Quarters, DHQ (PO)
New Delhi – 01

3. The Chief Engineer,
Head Quarters,
Yeshwanthpur Post, Bangalore – 22

4. The Chief Engineer,
Head Quarters,
Southern Command,
Engineer's Branch, Pune – 01

5. Commander Works Engineer (AF-North),
Bellary Road, Bangalore – 06

6. Garrison Engineer (Maintenance)
Air Force, Bangalore – 13.

...Respondents

(By Standing Counsel Shri S. Sugumaran for Respondents)

ORDER (ORAL)

HON'BLE DR.K.B.SURESH

...MEMBER(J)

Heard. The matter is in a very small compass. The applicants had approached various Tribunals and obtained orders in their favour. The question here is, then at what point of time will their right arise. We have held in many other cases also that the Trade Test in the circumstances and in the process of

merger of Industrial and non-industrial, from 1990 onwards and on the basis of 5th Pay Commission Report, is to be viewed in a special fashion.

2. Therefore, the issue is in a very small compass now. When will their right arise? The Trade Test which had been conducted following our orders do not have a juncture in time as it is, but juncture in opportunity. While availing this opportunity, these people have crossed the suitability barrier, which made them eligible for enhancement in career opportunity. But then, since there was great delay in conducting all these tests, their right must construe not from the date of availing that Trade Test but when the opportunity arose for them.

3. We therefore remit the matter back to the respondents to find out when each mate person have become eligible for the enhancement and after passing of the Trade Test become eligible as having crossed the suitability barrier. There upon, they will grant the notional benefits to the applicants from that earliest point of time. They need not give the consequences of this benefit to them because they have not worked in the new post.

4. Therefore the OA is allowed to the limited extent. Matter remitted back to the respondents to do the needful with the above lines within the next 2 months. No costs.

(C.V. SANKAR)
MEMBER(A)

(DR.K.B.SURESH)
MEMBER(J)

vmr

Annexures referred to by the Applicant in OA No.181-198/2018

1. Annexure A1 : Tabular Statement depicting service particulars.
2. Annexure A2 : Copy of the relevant extract of the Recruitment Rules dated 9.11.2014.
3. Annexure A3 : Copy of the circular dated 8.2.2011.
4. Annexure A4 : Copy of the order passed by the Ernakulam Bench in OA. No.109/2012 dated 12.12.2012.
5. Annexure A5 : Copy of the order in OA.No. 1019-1030/2012 dated 12.7.2013 .
6. Annexure A6 : Copy of the clarification by the Director (Personnel), CGSC dated 17.1.2014.
7. Annexure A7 : Copy of the order passed in MA.No. 54 & 55/2014 dated 19.2.2014.
8. Annexure A8 : Copy of the memo dated 2.6.2016 agreeing to conduct the trade test.
9. Annexure A9 : Copy of the order dated 9.6.2016 in OA. 1460-1484/2015.
10. Annexure A10 : Copy of the order of promotion dated 12.9.2016.
11. Annexure A11 : Copy of the order merging the Mazdoors as Mates w.e.f. dated 7.10.2011.
12. Annexure A12 : Copy of the joint representation dated 18.3.2017.
13. Annexure A13 : Copy of the circular dated 20.1.2018.
14. Annexure A14 : Copy of the interim order passed in OA.66/2018 dated 5.2.2018.

Annexures referred to by the Respondents in the Reply

1. Annexure R1 : Copy of OA No.896/.2012.
2. Annexure R2 : Copy of promotion order dated 22.8.2014.
3. Annexure R3 : Copy of Result of Trade Test dated 2.8.2016.
4. Annexure R4 : Copy of promotion order dated 10.9.2016 promoting to Mate (SSK).
5. Annexure R5 : Copy of Trade Test dated 11.9.2017. for the post of SK.
6. Annexure R6 : Copy of Recruitment Rules of the year 2013.

Annexures referred to by the Applicant in the Rejoinder

15. Annexure A15 : Copy of the memorandum of OA. No.1460-1484/2015.
16. Annexure A16 : Copy of the letter dated 2.9.2006 which was produce d as Annexure A-1along with OA. 1460-1484/2015.
