

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00090/2017

Friday, this the 5th day of April, 2019

C O R A M :

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER**

K.Devarajan,
S/o.N.K.Kuttappan,
Foreman (Lagger),
Quality Control Department, NSRY (K),
Naval Base P.O., Kochi – 682 004.
Residing at Lakshmeenandanam,
Pandit Karuppan Road, Maradu P.O.,
Ernakulam – 682 304.

...Applicant

(By Advocate – Mr.S.Sujin)

v e r s u s

1. Union of India
represented by the Secretary to the Government of India,
Ministry of Defence, New Delhi.
2. Chief of Naval Staff,
for Director of Civilian Personnel,
Integrated Head Quarters,
Ministry of Defence (Navy),
New Delhi – 110 011.
3. Flag-Officer-Commanding-in-Chief,
For Administrative Officer Gde-11/SSO(CP)/CSO(P&A),
Head Quarters, Southern Naval Command, Kochi – 682 004.
4. Admiral Superintendent,
For Senior Manager (P&A),
NSRY (K), Naval Base P.O.,
Kochi – 4.

...Respondents

(By Advocate Mr.N.Anilkumar, SCGSC)

These Original Applications having been heard on 26th March 2019,
the Tribunal on 5th April 2019 delivered the following :

ORDER**HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER**

The O.A is filed by the applicant stating that while implementing the recommendations of the 5th CPC the respondents have wrongly merged and demerged the trades without any criteria/rules resulting in denial of promotion to him whereas his juniors from other trades were posted as his superior officer overlooking his seniority. According to the applicant the Revised Recruitment Rules, 2007 which was formulated pursuant to the directions of this Tribunal in O.A.No.842/2003 was not implemented and if the same has been followed strictly in its true letter and spirit, promotions to the higher post will be made grade wise and not trade wise. The applicant alleges that due to this reason he has not been considered for further promotions as his promotional avenues were reduced. Further it is stated that the promotion granted to him now ought to have been granted to him way back in 2003 in implementation of the 5th CPC and that would have made him eligible for other benefits all of which was denied to him. Feeling aggrieved the applicant has filed this O.A seeking the following reliefs :

1. Quash Annexure A-2 issued by the 3rd respondent.
2. Issue a direction to the respondents to grant the applicant the promotion from the date on which his colleagues were granted promotion, with full back wages and other service benefits which has been granted to them.
3. To issue any other appropriate order or direction to the respondents to implement the recommendations of the Pay Commission in its true sense so as to give the benefits intended in the recommendations.
4. To issue any other appropriate order or direction which this Hon'ble Tribunal may deem fit on the facts and circumstances of the case.

5. To award the cost of these proceedings.

2. The respondents have filed their reply statement wherein it is stated that the Revised Trade Structure was implemented as per trade wise strength and the erstwhile 4 tier structure of Technical Supervisory Staff was also formulated as per trade and accordingly departmental qualifying tests for promotions are conducted trade wise as per the Revised Trade Structure. Restructuring of the cadres have been done in accordance with the Government directives and the same has been implemented trade wise, which was found to be more beneficial for the cadre. It is submitted that there was no post of Foreman in the trade of the applicant. Admittedly the applicant has qualified for the post of Foreman in 2015. It is pointed out that one post was catered for promotion by clubbing of three isolated trades of Chargeman (Sailmaker/Lagger, Hot Insulator and Rigger). On clubbing of three Chargeman posts one post of Foreman was available in those trades. Accordingly, Departmental Qualifying Test was conducted for the post of Foreman (Sailmaker/Lagger) in 2015 and DPC was convened to effect promotion to the post available after clubbing. It is submitted that the decision on clubbing of the isolated posts for creation of higher post was finalized only in 2015 resulting in the creation of Foreman post of which the applicant was the lone beneficiary. It has been clearly specified in the promotion order that promotion will be effective from the date of assumption of higher duties. Since the applicant was admittedly qualified for the post during 2015 and assumed duties of higher post with effect from 13.5.2016 his request for notional promotion with effect from 2003 is not in order and accordingly the same was rejected.

3. Heard learned counsel for the parties at length and perused the records and legal position.

4. The applicant claims that he has been discriminated as his juniors who are working in different trades got accelerated promotion and he has been deprived of the same. The basic contention raised by him is that the respondent while implementing the recommendations had wrongly merged and demerged the trades without any criteria/rules and promotions are made accordingly which resulted in denial of promotion to him.

5. On the other hand, respondents took the stand that on the recommendations of 6th CPC they have implemented 2 tier structure by merging Assistant Foreman and Foreman post and redesignated as Foreman and Chargeman I and Chargeman II were merged and redesignated as Chargeman on 1.1.2006 and 5.5.2010 respectively on the basis of trade wise strength. The promotion to Technical Supervisory Staff were formulated as trade wise strength. The post of the applicant is isolated one. However, in terms of the directions the respondents have considered the case of the applicant and DPC was convened. When due to restructuring one post of Foreman was available, the applicant being eligible was promoted to the post of Foreman in the year of 2015 by clubbing three isolated trades Sailmaker/Lagger, Rigger/Hot Insulator. By this exercise the applicant is benefited by getting promotion to the next higher post. Thus the applicant cannot claim now that he should be given promotion with effect from 2003 because this post was created only to accommodate the applicant and

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similarly placed persons in the isolated trades. Further the plea that junior from other trades got promotions to higher posts also not sound convincing for the reason that the applicant can claim parity only in own trade. He cannot compare himself with person belonging to different trade having different cadre strength, nature of work, job requirement, duties and responsibilities. All the more when his trade is isolated one. Thus the applicant cannot claim that he has been discriminated. Hence the applicant cannot claim that the supervisory post in other trades having a different cadre strength because every trade is having specific requirement at lower and higher level.

6. In light of the above, we are of the view that the present O.A is having no merit whatsoever and the same is accordingly dismissed. No order as to costs.

(Dated this the 5th day of April 2019)

ASHISH KALIA
JUDICIAL MEMBER

E.K.BHARAT BHUSHAN
ADMINISTRATIVE MEMBER

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List of Annexures in O.A.No.180/00090/2017

1. **Annexure A1** - A true copy of the Order dated 13.4.2006 in O.A.No.842/2003.
2. **Annexure A2** – A true copy of the letter dated 10.11.2016 issued by the 3rd respondent.
3. **Annexure A3** – A true copy of the results of the Departmental Qualifying Test.
4. **Annexure A4** - A true copy of the letter dated 12.12.2013 issued by the 4th respondent to the applicant.
5. **Annexure A5** - A true copy of the common judgment in OP(CAT) No.271/2016 passed by the Hon'ble High Court of Kerala.
6. **Annexure A6** - A true copy of the letter dated 16.10.2018 issued by the 1st respondent to the 2nd respondent.
7. **Annexure A7** – A true copy of the letter dated 17.10.2018 issued by the 3rd respondent for requesting compliance of Annexure A-5 judgment.
8. **Annexure A8** – A true copy of the letter dated 29.2.2006.
9. **Annexure A9** - A true copy of the enclosure of the letter dated 4.8.2006 showing the revised trade structure.
10. **Annexure A10** - A true copy of the order of promotion of George Kutty dated 27.3.2003.
11. **Annexure R1** - True copy of the MOD letter No.CP(P)/8416/6th CPC/ADM/TECH/134/US(MP)/D(N-II) dated 5.5.2010.
12. **Annexure R2** - True copy of the MOD letter No.CP(P)/8416/6th CPC/ADM/TECH/134/US)MP)/D(N-II) dated 5.4.2010.
13. **Annexure R3** - True copy of the IHQ letter FM/1228 dated 4.8.2006.
14. **Annexure R4** - True copy of the Hon'ble Tribunal order dated 10.6.2013.
