

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00105/2015

Date of Order: This, the 06th day of February 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEHSIAL, ADMINISTRATIVE MEMBER

1. Nur Mahammad Ali Ahmed
Son of Late Moulobi Abdul Halim
Electrician (HS-I), MES/229638
Office of the Assistant Garrison Engineer (E/M)
Guwahati, P.O. – Basistha, Guwahati – 29.
2. Shri Nabin Chandra Das
Son of Late Karuna Kanta Das
Electrician (HS-I), MES/229529
Office of the Assistant Garrison Engineer (E/M)
Guwahati, P.O. – Udeyan Vihar
Guwahati – 781171.
3. Shri Kosheswar Sarma
Son of Late Thaneswar Sarma
Electrician (HS-I), MES/229630
Office of the Assistant Garrison Engineer (E/M)
Narangji, Guwahati, P.O. – Satgaon
Guwahati – 27, Dist – Kamrup (Metro).

(All the applicants are presently working in the Grade of HS-I under the Administrative Control of Commander Works Engineer (AF), Borjhar, P.O. – Airport, Borjhar, Guwahati – 15.)

...Applicants

By Advocates: Mr. M. Chanda, Mrs. U. Dutta and Ms. S. Begum

-Versus-

1. The Union of India
Represented by the Secretary
To the Govt. of India
Ministry of Defence, South Block
New Delhi – 110001.

2. The Commander Works Engineer
(AF) Borjhar, P.O. – Airport, Borjhar
Guwahati – 15.
3. The Garrison Engineer
Guwahati, Narengi, Satgaon
Guwahati – 781027.
4. Shri Hiren Medhi
Electrician HS-I
(MES No. 225841).
5. Shri Bipul Chandra Kumar
Electrician HS-I
(MES No. 225790).
6. Shri P.C. Rajbongshi
Electrician HS-I
(MES No. 225892).
7. Shri D.D. Das
Electrician HS-I
(MES 225418).
8. Shri Binod Chandra Deka
Electrician HS-I
(MES 225407).
9. Shri P.C. Das
Electrician HS-I
(MES 225679).

(Respondent Nos. 4 to 9 are working under different offices of Garrison Engineer under the Administrative control of Head Quarters, Commander Works Engineer (AF), P.O. – Airport, Borjar, Guwahati – 781015, therefore notices of respondent Nos. 4 to 9 may be served through respondent No. 2).

...Respondents

By Advocate: Mr. R. Hazarika, Addl. CGSC

ORDER**NEKKHOMANG NEIHSIAL, MEMBER (A):**

The present case has been filed by the applicant for quashing/setting aside the impugned order dated 09.07.2014, 13.10.2014 as well as impugned letter dated 12.01.2015 and to declare that they are senior to the respondent Nos. 4 to 9 in the grade of Electrician HS-1 with a further direction for refixation their seniority above the respondent Nos. 4 to 9 with immediate effect.

2. Facts of the case are as follows:-

- (i) That the applicant No. 1 was initially appointed as a direct recruit, as Switch Board Attendance (in short SBA) w.e.f. 23.04.1988 and was posted in the office of the GE (AF) Shillong under CWE Shillong area. Subsequently he was redesignated as Electrician (SK). However, subsequently, he was transferred to GE Guwahati w.e.f. 19.01.1998 under CWE (AF) Borjhar Area. He was granted regular promotion to the grade of Electrician HS after rendering 8 years of service i.e. on 01.01.1996, on promotion, his pay was fixed in the scale of pay of Rs. 4000-6000/-. However, following recommendation of the 6th CPC, the applicant was granted Grade Pay of Rs. 2400/- in the PB-1 Rs. 5200-20,200/-. He was also granted

benefit of 2nd ACP and his Grade Pay thereafter fixed at Rs. 2800/- under PB-1 Rs. 5200-20,200/-. He was further promoted to the grade of HS-I, vide Part-II order bearing Seniority No. 30/37/2014 dated 28th July, 2014 w.e.f. 01.09.2008.

(ii) That the applicant No. 2 Shri Nabin Chandra Das also appointed initially in the grade of Line Man on 27.10.1987. Thereafter, he was promoted to the grade of Electrician HS on 01.01.1996 and thereafter, transferred and posted at GE Guwahati under CWE (AF) Borjhar Area. The applicant No. 2 also granted promotion to the grade of HS-I w.e.f. 01.09.2008, vide Part-II order No. 31.06.2014 dated 04.08.2014.

(iii) That the Applicant No. 3 also initially appointed as Line Man on 27.10.1987 and thereafter granted promotion to the grade of Electrician HS w.e.f. 01.01.1996. He was transferred and posted at G.E. Narangi, Guwahati under the Administrative Control of CWE (AF) Borjhar Area. The applicant No. 3 also granted promotion to the grade of HS-I w.e.f. 01.09.2008 vide letter No. 1455/RDPC/130/E1A dated 02.02.2010.

3. This case had come up on various dates since 07.04.2015 and accordingly, final hearing was concluded and kept reserved on 13.12.2018. Written argument has been submitted by the learned counsel for the applicant on 20.12.2018 whereas no written argument has been submitted by the respondents.

4. The point of litigation is that the applicants were initially appointed in the cadre of Switch Attendant/Electrician (SK) under GE, Air Force Shillong on different dates in the pre-revised scale of Rs. 950-1500/- in Group C post and being senior whether they would be entitled to be granted higher pay scale/grade pay on account of extension of ACP/MACP. While working under HQ, CWE, Shillong applicants working at Shillong under the administrative control of Head Quarter CWE Shillong as Switch Board Attendant/Electrician (SK), they were transferred and posted at Guwahati on different dates on compassionate ground and on own request basis, placing them in the bottom of the seniority list of Switch Board Attendant/Electrician (SK) during the year 1998, 1999 and 2000 the relevant dates of posting at Guwahati in the cadre of Electrician (SK) in the scale of Rs. 950-1500/- are placed herein below:-

Name of Applicants	Date of posting at Guwahati on compassionate ground
1. Nur Mohammad Ali Ahmed, Electrician (SK)	19.01.1998
2. Shri Nabin Chandra Das, Electrician (SK)	07.02.2000
3. Shri Kosheswar Sarma, Electrician (SK)	04.01.1999

The aforesaid dates of posting at Guwahati on own request basis in the cadre of Electrician (SK) i.e. in the skilled category in the scale of Rs. 950-1500/- (Pre-revised) has also been confirmed by the respondents as evident from para 4, 5 & 6 of their written statement.

5. All the 3 applicants after their posting at Guwahati in the cadre of Electrician (SK) were promoted in the Highly Skilled category in the Electrician Trade i.e. HS Electrician grade in the scale of pay of Rs. 4000-6000/- on different dates at Guwahati under the Administrative Control of CWE (AF) Borjhar. Particulars of dates of promotion at Guwahati are furnished herein below:-

Name of Applicants	Dates of promotion as HS Electrician in the scale of Rs. 4000-6000/- under CWE Borjhar, Guwahati
1. Nur Mohammad Ali Ahmed, Electrician (SK)	03.08.2007
2. Shri Nabin Chandra Das, Electrician (SK)	01.09.2008
3. Shri Kosheswar Sarma, Electrician (SK)	01.09.2008

6. Mr. M. Chanda, learned counsel appearing on behalf of the applicants submitted that while promotion of the applicants given in the cadre of HS Highly Skilled on 03.08.2007/01.09.2008, it has come to the notice of the original applicants that similarly situated juniors who were working along with them as SBA/Electrician Skilled Grade in the scale of Rs. 950-1500/- were promoted at Shillong w.e.f. 01.01.1996 retrospectively. The present applicants, thereafter, approached this Tribunal vide O.A. No. 282/2006 claiming their promotions retrospectively at least w.e.f. 01.01.1996 at par with their

juniors in the Highly Skilled Grade and the said O.A. was disposed of vide order dated 17.11.2009. Accordingly, in view of the direction rendered by this Tribunal vide order dated 17.11.2009 held review DPC and recommended for grant of promotion w.e.f. 01.01.1996 and accordingly, applicants were promoted w.e.f. 01.01.1996 vide order dated 12.02.2010. However, order of promotion of applicant No. 3 was issued separately. Since the applicants were promoted retrospectively in the higher grade of HS Electrician in the scale of Rs. 4000-6000/- w.e.f. 01.01.1996 following judgment and order of this Tribunal dated 17.11.2009 passed in O.A. No. 282/2006 and in O.A. No. 103/2009, as such, they are liable to be treated in the bottom of the seniority list of Highly Skilled Grade on their posting on compassionate ground at Guwahati under CWE Borjhar from CWE, Shillong and they cannot be treated and adjusted against the lower category of Electrician Skilled category carrying the scale of Rs. 950-1500/- more so when the applicants have been promoted in the cadre of HS grade in the scale of Rs. 4000-6000/- w.e.f. 01.01.1996.

7. Mr. Chanda further submitted that all the private respondents were promoted in the highly skilled category only w.e.f. 20.05.2003 i.e. after a lapse of nearly 7 years from the actual date of promotion of the present applicants in the cadre of Electrician HS as evident from impugned seniority list as on 15.06.2010, in the impugned seniority list published as on 13.10.2014. Mr. Chanda has drawn the comparative chart of date of promotion of the applicants

vis-à-vis respondent Nos. 4 to 9 in the cadre of Electrician HS in the cadre of Rs. 4000-6000/- which reads as under:-

Name of Applicants and respondents	Dates of compassionate posting at Guwahati in the cadre of Electrician (SK) in the scale of Rs. 950-1500/-	Date of promotion in the cadre of Electrician HS in the scale of Rs. 4000-6000/-
1. Nur Mohammad Ali Ahmed	19.01.1998	01.01.1996 following implementation of Court judgment
2. Shri Nabin Chandra Das	07.02.2000	01.01.1996 following implementation of Court judgment
3. Shri Kosheswar Sarma	04.01.1999	01.01.1996 following implementation of Court judgment
4. Shri Hiren Medhi	Working under CWE, Guwahati	20.05.2003
5. Shri Bipul Chandra Kumar	Working under CWE, Guwahati	20.05.2003
6. Shri P.C. Rajbongshi	Working under CWE, Guwahati	20.05.2003
7. Shri D.D. Das	Working under CWE, Guwahati	20.05.2003
8. Shri Binod Chandra Deka	Working under CWE, Guwahati	20.05.2003
9. Shri P.C. Das	Working under CWE, Guwahati	20.05.2003
	Working under CWE, Guwahati	20.05.2003

8. Learned counsel for the applicant demanded that since the applicants have been promoted in the cadre of Electrician HS w.e.f. 01.01.1996 at least 7 years ahead of promotion of the private respondent Nos. 4 to 9 in the higher grade, therefore, present applicants are required to be fitted in the bottom of the seniority list of Electrician HS (higher grade) in the scale of Rs. 4000-6000/- instead of lower post of Electrician (SK) in the scale of Rs. 950-1500/-. Since the private respondent Nos. 4 to 9 got their promotion in the said grade of Electrician HS after a lapse of nearly 7 years, therefore, respondent Nos. 4 to 9 cannot be treated or declared as senior to

the present applicants in the next higher grade of Electrician HS 1 by the impugned seniority list of Electrician HS 1 as on 15.06.2010 issued through the impugned letter dated 13.10.2014. As such, said decision of the respondents declaring respondent Nos. 4 to 9 as senior to the applicants is liable to be set aside and quashed.

9. We have gone through the written argument submitted by the learned counsel for the applicant. We have also gone through the written statement filed by the respondents as well as rejoinder filed by the applicants. From the perusal of rejoinder filed by the applicants, it is evident from letter No. 1151/OA No. 282-2006 dated 12.02.2010, Annexure – A, page 84 to the rejoinder that in pursuance of the order of this Tribunal dated 17.11.2009 passed in O.A. No. 282 of 2006, Special DPC was conducted for considering the promotion of the applicants w.e.f. 01.1.1996 and accordingly, recommended as follows:

“RECOMMENDATIONS

6. In light of the foregoing facts and after careful consideration of the cases, the Board has found that MES-229638 Shri NM Ahmed, Elect (SK) and MES-229529 Shri Nabin Chandra Das, (Elect (SK) both of GE Guwahati are eligible for promotion from 01 Jan 1996 as they were present on the same date under the strength of CWE Shillong area and recommends that their promotion be considered immediately wef 01 Jan 1996 in view of implementation of judgment.”

10. It is also evident from the perusal of para 6 of the written statement filed by the respondents on 16.12.2015 that in the year 2010, HQ CWE Shillong conducted Special Departmental Promotion

Committee (DPC) from Elect Skilled Category to Elect Highly Skilled Category and promoted the applicant No. 3 as Highly Skilled w.e.f. 01.01.1996 (retrospectively) based on order of this Tribunal dated 17.11.2009.

11. We have also gone through the comparative chart as narrated above wherefrom it appears that applicants deserves to be considered as senior to the private respondents. Considering the above facts and relevant orders on the subject, we found that the applicants have justified ground to sustain their OA.

12. Accordingly, O.A. stands allowed. The impugned seniority list of all HS-I (Industrial Category) letter No. 1015/DPC/634/EINB dated 13.10.2014 (so far the applicants and private respondents are concerned) as well as impugned letter dated 12.01.2015 are hereby quashed and set aside. The respondents are directed to recast the seniority list and notify it accordingly within a period of three months from the date of receipt copy of this order.

13. No order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)