

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

I. O.A. No.60/528/2017 Date of decision: 16.07.2019
II. O.A. No.60/540/2017
M.A. No.60/753/2017

CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MR. A.K. BISHNOI, MEMBER (A).

I. O.A. No.60/528/2017

Sharanjeet Saini, S/o Sh. Bakshish Singh Saini, aged 27 years, working as Mate Electrical, G.E. NAMS, Amritsar Cantt. Punjab (Group C).

... APPLICANT

VERSUS



1. Union of India through the Secretary, Government of India, Ministry of Defence, New Delhi.
2. Headquarters, Commander Works Engineer, Amritsar Cantt.
3. Garrison Engineer, New Amritsar Mail Station, Pin-900257, C/o 56 APO.
4. Saneh Pal Singh, Mate Electrical, Office of Garrison Engineer, GSR, HQ CWE, Amritsar.
5. Balkaran Singh, Mate Electrical, Office of Garrison Engineer, GSR, HQ CWE, Amritsar Cantt.
6. Manpreet Singh, Mate Electrical, B/R, HQ CWE, Amritsar Cantt.
7. Piush Jariyal, Mate Electrical, Office of Garrison Engineer, GSR, HQ CWE, Amritsar.
8. Sandeep Bakshi, Mate Electrical, Office of Garrison Engineer, GSR, HQ CWE, Amritsar.
9. Vishal Sehgal, Mate Electrical, Office of Garrison Engineer, GSR, HQ CWE, Amritsar.
10. Ashwani Kumar, Mate Electrical, Office of Garrison Engineer, GSR, HQ CWE, Amritsar.
11. Kapil Rana, Mate Electrical, Office of Garrison Engineer, GSR, HQ CWE, Amritsar.
12. Liaqat Ali, Mate Electrical Office of Garrison Engineer, GSR, HQ CWE, Amritsar.
13. Rohit Sharma Mate Electrical, Office of Garrison Engineer, GSR, HQ CWE, Amritsar.
14. Manjinder Singh, Mate Electrical, Office of Garrison Engineer, NAMS, HQ CWE, Amritsar.

15. Anuj Kumar Singh, Mate Electrical, Office of Garrison Engineer, GSR, HQ CWE, Amritsar.
16. Manjinder Singh, Mate Electrical, Office of Garrison Engineer, GSR, HQ CWE, Amritsar.

... RESPONDENTS

PRESENT: Sh. V.K. Sharma, counsel for the applicant.
 Sh. Sanjay Goyal, counsel for the respondents.
 Respondent no.11 and 12 deleted.
 Respondents no.4 to 10, 13-16 Ex-parte.

II. O.A. No.60/540/2017

1. Dishant Sharma S/o Sh. Sunil Sharma, aged 28 years, (Group-C), working as Mate Refrigerator, office of Garrison Engineer, Gurdaspur Cantt. Punjab.
2. Gourav Singh Saini son of Sh. Mohan Lal, aged 29 years, working as Mate Refrigerator, office of Garrison Engineer, Gurdaspur (Group C).

... APPLICANTS

VERSUS

1. Union of India through the Secretary, Government of India, Ministry of Defence, New Delhi.
2. Headquarters, Commander Works Engineer, Amritsar Cantt.
3. Garrison Engineer, Gurdaspur.
4. Manpreet Singh, Mate Refrigeration Mechanic, Office of Garrison Engineer, GSR, HQ CWE, Amritsar Cantt.
5. Rajiv Kumar, Mate Refrigeration Mechanic, office of Garrison Engineer, GSR, HQ CWE, Amritsar Cantt.
6. Sukhwinder Singh, Mate Refrigeration Mechanic, office of Garrison Engineer, GSR, HQ CWE, Amritsar Cantt.
7. Pankaj Baishotra, Mate Refrigeration Mechanic, office of Garrison Engineer, GSR, HQ CWE, Amritsar Cantt.
8. Paramjit Singh Mate Refrigeration Mechanic, office of Garrison Engineer, GSR, HQ CWE, Amritsar Cantt.
9. Atul Kumar, Mate Refrigeration Mechanic, office of Garrison Engineer, GSR, HQ CWE, Amritsar Cantt.

(Respondent No.4 to 8 to be served through Commander Works Engineer, Amritsar Cantt.)

... RESPONDENTS

PRESENT: Sh. V.K. Sharma, counsel for the applicants.
 Sh. Sanjay Goyal, counsel for the official respondents.
 Respondent No.4 to 9 Ex-parte.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. This order will dispose of the above captioned two OAs as question of law involved and relief claimed therein are identical. However, for convenience facts are being taken from the case of **Sharanjeet Saini**.
2. The applicant is aggrieved against order dated 24.10.2016 conveyed vide letter dated 18.11.2016 vide which his request for restoration of seniority to his original cadre has been declined. He has further sought quashing of order dated 20.02.2015 vide which it was conveyed that trade of the applicant cannot be changed. He has further sought issuance of a direction to the respondents to fix his seniority in the cadre of Mate SSK (Electrician) from the date when he initially joined that cadre.
3. Facts are not in dispute.
4. Applicant herein possesses the technical qualification of ITI Wireman (Electrician) as per National Trade Certificate. His name was recommended by Employment Exchange, he was selected and joined respondent department on 24.1.2013 as Mate SSK in the pay scale of Rs.5200-20200+GP of Rs.1800/-. It is the case of the applicant that since he was offered appointment as Mate SSK and there are various trades and as per his qualification he was given trade of Electrical as is seen from order dated 31.08.2015 and continued as Mate SSK (Electrical). His trade was changed to that of Mate Pipe Fitter by the respondents against which he submitted representation on 16.1.2015. Pending his request, the respondents themselves

came up with a policy dated 23.5.2016 (Annexure A-10), whereby concession was given to the employees to change their trade. Taking a clue from that policy, vide order dated 25.10.2016 (Annexure A-12), respondents accepted request of the applicant for reverting back from Mate Pipe Fitter to Mate SSK (Electrical) but arbitrarily he has been assigned seniority at the bottom against which he is before this Court.

5. Sh. V.K. Sharma, learned counsel for the applicant vehemently argued that action of the respondents in not giving seniority from the date when applicant joined the cadre of Mate SSK (Electrical) is illegal, arbitrary and their view is liable to be set aside. To substantiate his plea, he submitted that once it has been admitted that he was given cadre of Mate SSK (Electrical), which was changed arbitrarily to Mate Pipe Fitter and while accepting his representation for revert back, the same was restored, then he should have been granted seniority from the date when he initially joined the cadre. Therefore, he prayed that the impugned view be set aside and seniority of the applicant be fixed from the date when he initially joined the cadre.
6. Respondents have resisted the claim of the applicant by filing a detailed written statement, wherein they have rejected contention of the applicant. However, on going through the written statement, it became apparent from para 4.4 of thereof that initially applicant was given trade of Mate SSK (Electrical) and subsequently his trade was changed suo-moto. However, Sh. Sanjay Goyal vehemently opposed prayer and also prayed that once applicant has failed to establish on record that he was allotted trade of Mate SSK (Electrical), therefore,

he cannot be given seniority from the earlier date and his seniority has rightly been fixed from the date when his representation was accepted i.e. from 2016. He also drew our attention to document at page 38 of the paper-book (Annexure A-11), which is an undertaking given by the applicant that on change of trade from Mate Pipe Fitter to Mate SSK (Electrical), he will lose seniority and will not claim seniority, therefore, he prayed that the O.A. be dismissed.

7. We have given our thoughtful consideration to the entire matter and have gone through pleadings available on record.
8. It is not in dispute that the applicant initially joined service as Mate SSK (Electrical). Document on record particularly Annexure A-5 Part-II order dated 31.8.2015 issued by the respondents acknowledges the fact that he was working as Mate SSK (Electrical) and respondents have allowed him Night Duty Allowance. Subsequently, that trade was changed from Mate SSK (Electrical) to Mate Pipe Fitter vide letter dated 11.8.2014 (Annexure A-6) by the respondents on their own. He raised alarm by submitting representation, which was pending. After issuance of policy decision dated 23.5.2016 regarding change of Trade, respondents accepted his representation and changed his trade from Mate Pipe Fitter to Mate (Electrical) but he was assigned seniority at the bottom. Though there is an undertaking given by the applicant that he will lose his seniority but considering the fact that he was initially allotted Trade of Mate SSK (Electrical), which was arbitrarily changed to Mate Pipe Fitter, thus view taken by the respondents cannot be approved of. They cannot be allowed to take the benefit of their own wrong. Annexure A-5 and averment made in the written statement to the

effect that he was initially give trade of Mate SSK (Electrical) coupled with the fact that he has been paid Night Duty Allowance for the same very work cannot be washed away. Once there is an admission by the respondents then action of the respondents in fixing seniority of the applicant at bottom cannot be approved.

9. Accordingly, the O.A. is allowed. Impugned order fixing seniority of the applicant at the bottom in the trade of Mate SSK (Electrical) is quashed and set aside. Respondents are directed to fix seniority of the applicant in the cadre of Mate SSK (Electrical) from the date when he initially joined as such. Both the OAs along with M.A. stand disposed of accordingly. In the connected case, the applicant No.1 initially joined in the trade of Refrigerator Mechanic and applicant no.2 in the cadre of Water Supply Section but that will not change the ultimate relief because we have held that once a person has been allotted a particular trade on his joining then that cannot be changed arbitrarily.
10. No costs.

(A.K. BISHNOI)
MEMBER (A)

Date: 16.07.2019
Place: Chandigarh.

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(SANJEEV KAUSHIK)
MEMBER (J)