

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH  
HYDERABAD

O.A/20/4/2014

Date of order : 30.10.2019

Between:

NEELAM CHINNAIAH,  
S/o late N Mugaiah,  
Aged 55 years,  
Occupation: Electrician Highly Skilled-II,  
A 15295295,  
O/o The Garrison Engineer (Naval Base),  
Navasena Bagh, Gandhigram Post,  
Visakhapatnam 530 005.

Applicant

AND

1. The Union of India, represented by its Secretary, Ministry of Defence, Government of India, New Delhi,
2. The Engineer-in-Chief Branch, IHQ of MOD (Army), New Delhi,
3. The Chief Engineer (HQ), Southern command, Pune-411 001,
4. The Chief Engineer (Navy), Station Road, Visakhapatnam 530004,
5. The Commander Works Engineer, Station Road, Visakhapatnam 530 004.
6. Pradipata Kumar Nayak, Electrician Highly Skilled-II, MES No.467288, O/o The Garrison Engineer (P), INS Chilka, R/o MES Quarter No. P-205/10, Naval Base (Chilka)m Khurda, Orissa 752037.

RESPONDENTS

Counsel for the applicant : KRKV PRASAD  
Counsel for the respondents : Mr. M BRAHMA REDDY,  
Senior PC for CG.

C O R A M :

THE HON'BLE Mr. JUSTICE L.NARASIMHA REDDY, CHAIRMAN  
THE HON'BLE MR. B V SUDHAKAR, MEMBER (A)

**ORAL ORDER**

(PER HON'BLE Mr. JUSTICE L.NARASIMHA REDDY, CHAIRMAN

Applicant initially joined service in Artillery Centre in the year 1981 and was thereafter transferred to the office of Commander Works Engineer, Visakhapatnam (Respondent NO.5 herein) as Chowkidar in the year 1982. He was promoted as Mate/Electrician in the year 1997 and was further promoted as Electrician (Skilled) on 01.05.2002. Next promotion is to the post of Electrician (Highly Skilled Grade-I). Under the Recruitment Rules, such of the Electricians (Skilled) who have 3 years regular service and are qualified in the trade test, are eligible for promotion. Applicant states that though the trade test was held at Chilka within the jurisdiction of Respondent No.5 in the year 2003, he was not intimated about it and he qualified the trade test only on 16.08.2005. Respondent No.6, who is junior to the applicant as Electrician (Skilled), qualified the trade test on 22.05.2003.

2. Departmental Promotion Committee for promotion to the post of

Electrician (Highly Skilled) for the year 2009, was held on 23.06.2009 and consequential orders were issued on 30.06.2009. While the applicant was shown against the vacancies of the year 2006-07, Respondent No.6 was shown against the vacancies of the year 2005-06.

3. This OA is filed with a prayer to direct respondents to treat the promotion of applicant as Electrician (Highly Skilled) against the year 2005-06 and to treat him as senior to Respondent No.6.

4. Applicant contends that the trade test was conducted in Chilka in the year 2003 without intimation to him and his failure to appear in the

test, cannot be treated as a factor to deny him promotion on par with Respondent No.6, who is junior to him.

5. On behalf of the respondents, a detailed counter is filed. It is stated that a pass in the trade test stipulated under Recruitment Rules is essential for promotion to the post of Electrician (Highly Skilled) and since the applicant cleared that only on 16.08.2005, he was shown against the vacancy that arose on 01.04.2006. It is stated that the vacancy for the earlier years was with reference to the dates 01.04.2005 and 16.08.2005 and since the applicant did not possess the qualification by that time, he could not be shown against the said vacancies.

6. Applicant also filed rejoinder, together with documents.

7. Heard Mr. KRKV Prasad, learned counsel for applicant and Mr. K.Bhim Singh representing Mr. M.Brahma Reddy, learned standing counsel for respondents No. 1 to 5. There is no appearance for Respondent No.6.

8. Applicant reached the stage of Skilled (Electrician) after passing through various stages. Next promotion is to the post of Electrician (Highly Skilled Grade-I). Qualifications for promotion to that post are stipulated under Column 12 of the Recruitment Rules. They read as under:

“Electrician (Skilled) who have 3 years regular service in the grade and have qualified trade test for the post of Electrician (Highly Skilled Grade II) as prescribed by Engineer-in-Chief.”

9. From this, it becomes clear that Electrician (Skilled) becomes eligible for promotion only on qualifying in the trade test for the post of

Electrician (Highly Skilled Grade-II). Applicant passed that test on 16.08.2005. Departmental Promotion Committee met on 23.06.2009 and since the applicant qualified as on that date, he was recommended for promotion. The whole controversy is about the date with effect from which the promotion must operate.

10. From the records, it becomes clear that by the year 2009, there existed vacancies referable to the years 2004-05, 2005-06, 2006-07 and 2007-08. It is also important to note that vacancies for the years 2005-06 are referable to 01.04.2005 (two vacancies) and 16.08.2005 (23 vacancies). Since the applicant did not clear the trade test by those dates, he was not shown against those vacancies. The next immediate available vacancy is of 01.04.2006 is of the year 2006-07 and the applicant was accommodated against that vacancy.

11. Once the Recruitment Rules stipulate the pass in the trade test, the question of promoting an employee with effect from the date which is earlier to one of which he acquired qualification, does not arise. The grievance of the applicant is that he was not aware of conducting the examination on 22.05.2003 at Chilka. It hardly matters. If he had any grievance about it, he could have pursued the remedy at the relevant point of time. Acceding to the request of the applicant would result in a promotion to higher post at the time when he did not hold the stipulated qualification. Law does not permit such course of action.

12. The fact that the applicant became eligible by the time the Departmental Promotion Committee was held, does not become relevant in the context of showing him against a vacancy of a particular year and date. That would depend upon the year in which he passed and cleared the trade test.

13. We do not find any merit in the OA. OA accordingly dismissed.  
There shall be no order as to costs.

(B V SUDHAKAR)  
MEMBER (A)

(JUSTICE L.NARASIMHA REDDY)  
CHAIRMAN

vsn

