

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.339/2013

Date of Decision: 10th October, 2019

CORAM: R. VIJAYKUMAR, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

1. Prakash Madhukar Bhoir,
Aged-51 yrs., Presently
working as Assistant Foremen
(AWS), Naval Armament Depot,
Karanja, Uran – 400 701 &
Residing at A-201, Shree Ram
Samarth Apt., Balai Road,
Balai Uran, District Raigad – 400 702.
2. Madhukar Sitaram Lonare
Aged-52 years, presently
working as Assistant Foremen
(A W S) Naval Armament Depot
Karanja, Uran – 400 701 &
Residing at B-301,
Dhan Mahalaxmi Apt.,
Navgaon Road, Mohtaval, Uran,
Dist. Raigad.
3. Pravin Shamrao Maheker,
Aged – 49 years, presently
working as Assistant Foremen
(AWS), Naval Armament Depot,
Karanja, Uran – 400 701 &
Residing at Room No.9,
3rd Floor, 'D' Wing,
Sonu Apt., Kamtha Road,
Near Vimla Talao, Uran Kamtha,
District – Raigad – 400 702.
4. Jagdish Hari Koli,
Aged – 45 years, working as
Assistant Foremen (AWS)
Naval Armament Depot,
Karanja, Uran – 400 701 &
Residing at Room No.37,
Sector – 2, Vashi Navi Mumbai
District – Raigad – 400 703.

5. Surendra Namdeo Meshram
Aged – 46 years, presently
working as Assistant Foreman
(AWS), Naval Armament Depot,
Karanja, Uran – 400 701 &
Residing at Flat No.301,
“C” Wing, Manila Co-op. Hsg.
Society Ltd., Tandelwadi,
Karanja Road, Uran,
District – Raigad.

... *Applicants*

(By Advocate Shri Sai Kumar Ramamurthy)

Versus

1. The Union of India through
the Secretary Ministry of
Defence, Govt. of India,
South Block, New Delhi – 110 001.
2. The Director General of
Naval Armament Depot,
Integrated Headquarters,
R.K. Puram – 5, Sector,
New Delhi – 110 066.
- 3.* The Flat Officer Commanding
in chief, Headquarters,
Western Naval Command, INS
Angre, SBS Marg, Fort,
Mumbai – 1.
4. The Chief General Manager,
Naval Armament Depot,
Gungate, SBS Marg, Mumbai – 1.
5. The General Manager,
Naval Armament Depot,
Karanja District – Raigad – 400 704.

... *Respondents*

(By Advocate Shri R.R. Shetty alongwith Shri N.K. Rajpurohit)

ORDER (ORAL)

Per : Shri R. Vijaykumar, Member (A)

This OA has been filed on 11.06.2013
under Section 19 of the Administrative

Tribunals Act, 1985 seeking the following reliefs:-

"(a) that this Hon'ble Tribunal be pleased to quash and set aside the temporary establishment order No.152 of 2012 dated 13.09.2012 and temporary dept order No.75 of 2012 dated 13.09.2012 as well as the two replies dated 06.10.2012 and 08.10.2012 (Annexures-"A-1" to "A-4")

(b) that this Hon'ble Court be pleased to direct the respondents to pass appropriate orders in pursuance of prayer clause (a) and continue the designation of the applicant as exiting prior to passing of the impugned order dated 13.09.2012 and allow the applicants to discharge the duties and functions of their post as before and allow them all service benefits including productivity linked bonus, over time and not deduct any amount towards officers club subscription;

(c) that this Hon'ble Court be pleased to direct the respondents in pursuance of the prayer clauses (a) and (b) above to pay the applicants over time due to them on account of their work from the months of August 2012 every month till date and also pay the productivity linked bonus for the year 2012 and for future years and to refund the amount deducted very month from August 2012 towards officers club subscription with interest at the rate of 18% p.a., on the said amounts from the due date till repayment'

(d) that such other and further order of orders be passed in the facts and circumstances of the case, as may be required;

(e) that the costs of this application be granted.

2. The applicants commenced service with the respondents as Chargeman in the year 1987 and received their first ACP benefits in the year 1999 in the grade of Assistant Foreman and then got second MACP in the year 2008 to the grade applicable to the post of Foreman which was the immediate higher grade pay in the hierarchy of grade pays. The applicants were formally promoted to the post of Assistant Foreman (AWS) in the merged cadre in which the posts of

Assistant Foreman (Non Gazetted) was merged with the post of Foreman (Group 'B', Gazetted) in terms of the recommendations of the 6th CPC w.e.f. 01.01.2006. These three orders of promotion are dated 17.08.2012 (Annexure A-6). In these orders, the applicants who assumed duties in the promoted post from their erstwhile charge of Chargeman (AWS) on 08.08.2012 were confirmed with the grade pay of Rs.4600/- in the merged cadre of Assistant Foreman and Foreman. It appears that the local Naval Armament Depot in which the applicants were serving, re-designated the Foreman (AWS) (Group 'B' Gazetted post) and its holders as Junior Works Manager (JWM). Further, from the date of promotion in August 2012, the applicants ceased to receive Over Time (OT) and Productivity Linked Bonus (PLB) consequent upon their assumption of the Gazetted post. The applicants have charged that the re-designation done by the respondents is contrary to the rules and as result of which, the respondents have denied them the benefit of OT and PLB claiming that they are now Gazetted Officers.

3. Learned counsel for the applicants has been heard in this matter. The status of promotion and movement of the applicants through different stages both in respect of their career

and in respect of their pay scales have been set out in clear terms in the above relation of facts of the case. Until 17.08.2012, the applicants were serving in the Non-Gazetted cadre, initially as Chargeman and continued thereafter while receiving ACP and MACP benefits in the higher cadre. Although they received the higher pay scales, they continued to function in a Non-Gazetted post and were entitled to the receipt of OT and PLB. Learned Counsel for the applicants has referred to certain Minutes of a Meeting held by the Director General of Naval Armaments on 18.03.2011 (Annexure A-17) in which this aspect was considered under Agenda Item No.4 relating to Gazetted status for Group 'B' staff and it was decided to maintain status quo pending further decision on recategorisation after issuance of revised recruitment rules. However, the promotion orders issued by respondents in No.Civilian Establishment Order PT-II 99/2012 (Non-Industrial) dated 17.08.2012 are subsequent to this and it cannot be said that the minutes of a meeting held locally and which evidently seeks orders of the higher authorities can subsume letters/orders of the higher authorities which confer the promotion to the applicants in the merged cadre of Assistant Foreman cum Foreman. The applicants have also

joined in his post which is now a Group 'B' Gazetted post on 08.08.2012. In these circumstances, it is evident that their substantive post became a Gazetted cadre and they would not be entitled to any of the OT and PLB benefits that they had obtained in the erstwhile Non-Gazetted Cadre.

4. Learned counsel for the respondents has submitted that the re-designation of Junior Works Manager was done locally and there is no basis in this re-designation in the Recruitment Rules and that the applicants continue to fall into the promoted cadre w.e.f. the date of joining by the applicants on 08.08.2012. This position is also confirmed in the orders No.AS/2129 dated 07.01.2011 filed by the applicant in Annexure A-16 where the erstwhile cadres of Assistant Foreman and Foreman are shown as merged and no reference is made to a post such as Junior Works Manager. The respondents have also stated in their additional affidavit and enclosed the order of the respondents in No.CP(P)/8416/VII CPC/Policy dated 03.05.2016 wherein this aspect of re-designation of the post of Foreman as Junior Works Manager was considered with reference to the payment made by the staff side that the designation be changed as Junior Works Manager.

However, the respondents have consulted the Ministry and passed orders which are reproduced below:-

"The post of JWM/Foreman exists in many defence establishments across Army, Navy and Air Force as also many factories and installations of Deptt of Defence Production. The nomenclature and the pay scales in these organisations maintained a historical parity which would disturb in the event of unilateral and abrupt change of nomenclature in one service segment. Therefore, this Division does not convey our concurrence to any move to re-designate the post on the basis of letter No.410/2009-D(Civ.I) dated 01 May 2015. The post shall bear only such name or designation/nomenclature which figures in the recruitment rules of the post in case the same does not differ with the model recruitment rules prescribed by DoP&T(if any).

In case no model recruitment rules have been prescribed by the DoP&T, then there shall be no change in the per-existing nomenclature /designation since this would lead to confusion and disparity with other defence organizations."

5. In any circumstance, the local order of re-designation does not alter the substantive status of the applicants which remained as a Foreman in the merged cadre and therefore, such withdrawal of re-designation cannot also benefit their claim as raised in the OA.

6. As discussed above, this OA is clearly lacking in merits and is, accordingly dismissed.
No costs.

(Ravinder Kaur)
Member (J)

(R.Vijaykumar)
Member(A)

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