

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.Nos.28404 and 28405 of 2016
and
W.M.P.Nos.19536 to 19538 of 2017

N.V.R.Krishnan Petitioner in both the W.Ps.

-vs-

- 1.The Central Administrative Tribunal,
Chennai Bench,
rep.by its Registrar,
High Court Building,
City Civil Court Complex, Chennai.
 - 2.The Secretary to Government of India,
Ministry of Labour, New Delhi.
 - 3.The Director General,
Directorate General of Employment and Training,
Ministry of Labour, New Delhi.
- Respondents in both the W.Ps.

W.P.No.28404 of 2016 filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent in O.A.No.501 of 2013 dated 01.09.2015 and the consequential orders passed by the Tribunal in R.A.No.25 of 2015 in O.A.No.501 of 2013 dated 07.01.2016 confirming the order of the 2nd respondent in No.DGET-C-18012/10/2002-TA-I dated 14.09.2012 and quash the same and consequently direct the respondents to upgrade the post of Junior Maintenance Mechanic (JMM) on par with Vocational Instructor along with consequential benefits including seniority from the date of appointment as JMM.

W.P.No.28405 of 2016 filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent in O.A.No.504 of 2013 dated 07.10.2015 and the consequential orders

passed by the Tribunal in R.A.No.26 of 2015 in O.A.No.504 of 2013 dated 07.01.2016 confirming the order of the 2nd respondent in No.DGET-C-18012/10/2002-TA-I dated 14.09.2012 and quash the same and consequently direct the respondents to fix the scale of the JMM on par with Vocational Instructor with all consequential arrears of pay from the date of appointment to the post of JMM, as done for other similarly placed Maintenance Staff like Vocational Instructor Machinist General, Vocational Instructor, Fitter General and Maintenance Electrician.

For Petitioner :: Mr.V.Vijay Shankar

For Respondents :: Mr.V.P.Sengottuvel,
Central Govt.Standing Counsel for
R2 and R3

COMMON ORDER

(Made by RMT.TEEKAA RAMAN, J.)

W.P.No.28404 of 2016 has been filed to quash the order passed by the first respondent in O.A.No.501 of 2013 dated 01.09.2015 and the consequential orders passed by the Tribunal in R.A.No.25 of 2015 in O.A.No.501 of 2013 dated 07.01.2016 confirming the order of the 2nd respondent in No.DGET-C-18012/10/2002-TA-I dated 14.09.2012 and to consequently direct the respondents to upgrade the post of Junior Maintenance Mechanic (JMM) on par with Vocational Instructor along with consequential benefits including seniority from the date of appointment of the petitioner as Junior Maintenance Mechanic.

2.W.P.No.28405 of 2016 has been filed to quash the order passed by the first respondent in O.A.No.504 of 2013 dated 07.10.2015 and the consequential orders passed by the Tribunal in R.A.No.26 of 2015 in O.A.No.504 of 2013 dated 07.01.2016 confirming the order of the 2nd respondent in No.DGET-C-18012/10/2002-TA-I dated 14.09.2012 and to consequently direct the respondents to fix the scale of the Junior Maintenance Mechanic on par with Vocational Instructor with all consequential arrears of pay from the date of appointment of the petitioner to the post of Junior Maintenance Mechanic, as done for other similarly placed Maintenance Staff like Vocational Instructor Machinist General, Vocational Instructor, Fitter General and Maintenance Electrician.

3.It is the case of the petitioner that he was appointed as Junior Maintenance Mechanic in July 1992 in the pre-revised scale of Rs.1400-2300, under the Ministry of Labour in Directorate General of Employment and Training (DGE&T) at Advanced Training Institute. Under the same DGE&T, there are other posts in the name of Vocational Instructor Machinist

General, Vocational Instructor Fitter General and Maintenance Electrician in the pre-revised scale of Rs.1640-2900. All these posts fall under Group-C in the field of maintenance and the nature of duties and responsibilities are also similar. However, only the post of Junior Maintenance Mechanic held by the petitioner was fitted in the lower pay scale of Rs.1400-2300. Hence the petitioner made representations to the Department to upgrade the post of Junior Maintenance Mechanic at par with Vocational Instructor Machinist General, as the function, recruitment rules and duties for Junior Maintenance Mechanic and Vocational Instructor Machinist General are one and the same. His request was rejected by the Department. The orders impugned in these writ petitions are the orders passed by the Tribunal in O.A.No.501 of 2013 and 504 of 2013 dated 01.09.2015 and 07.10.2015 respectively, wherein the claim of the petitioner was rejected. Further, the review applications filed by the petitioner to review the said orders, also came to be rejected by order dated 07.01.2016. Hence these writ petitions.

4.The learned counsel for the petitioner has submitted that the post of Junior Maintenance Mechanic is a solitary post existing only in Chennai; very few people have occupied the post so far and the petitioner was the last occupant. After 1999, the post has not been filled up, but on the other hand, all other posts such as Vocational Instructor Machinist General, Electrician, Maintenance Electrician etc., all of which have common seniority Vocational Instructor Fitter General and Maintenance Electrician have been filled up, and the respondents did not show any importance to the post of Junior Maintenance Mechanic on account of being a solitary post. Thus, submitting that a single post with similar duties and responsibilities as that of the post of Vocational Instructor Machinist General cannot be isolated, only on account of it being a solitary post, the learned counsel for the petitioner prayed for quashing the impugned orders passed by the Tribunal and for a direction to upgrade the post of Junior Maintenance Mechanic on par with Vocational Instructor along with consequential benefits including seniority from the date of appointment of the petitioner as Junior Maintenance Mechanic.

5.The learned Central Government Standing Counsel appearing for the respondents 2 and 3 has submitted that the Tribunal has dealt with the matter in proper perspective and rightly dismissed the claim of the petitioner on merits. It is his further submission that even before the Tribunal, it was the third journey of the petitioner, having failed to succeed in the earlier attempts with the same request. Stating so, he prayed for dismissal of the writ petitions.

6.Heard the learned counsel on either side and perused the materials available on record.

7.It is the case of the petitioner that he was appointed as Junior Maintenance Mechanic in July 1992 in the pre-revised scale of Rs.1400-2300, under the Ministry of Labour in Directorate General of Employment and Training (DGE&T) at Advanced Training Institute. Under the same DGE&T, there are other posts in the name of Vocational Instructor Machinist General, Vocational Instructor Fitter General and Maintenance Electrician in the pre-revised scale of Rs.1640-2900. All these posts fall under Group-C in the field of maintenance and the nature of duties and responsibilities are also similar. However, only the post of Junior Maintenance Mechanic held by the petitioner was fitted in the lower pay scale of Rs.1400-2300. Hence the petitioner made representations to the Department to upgrade the post of Junior Maintenance Mechanic at par with Vocational Instructor Machinist General, as the function, recruitment rules and duties for Junior Maintenance Mechanic and Vocational Instructor Machinist General are one and the same. His request was rejected by the Department. Earlier the petitioner filed O.A.No.426 of 1998 and the same was partly allowed on 16.08.2000 by directing the respondents to hasten the process of amending the RRs suitably and complete the same within a period of three months. The said direction was modified by the Tribunal by order dated 24.10.2000 in M.P.No.720/2000, directing the respondents to upgrade the post of Junior Maintenance Mechanic on par with VI (Machinist General) and to suitably modify or amend the RRs for the post of Senior Technical Assistant / Group Instructor. The said order was challenged by the respondents therein by filing W.P.No.7111 of 2001 and this Court, by order dated 28.01.2004, allowed the same and quashed the order passed by the Tribunal. The Special Leave Petition and the consequential Review Applications filed by the petitioner ended in dismissal. But a direction was given in the Special Leave Petition that if the petitioner makes a representation for being transferred to the post of Vocational Instructor from his present post as Junior Maintenance Mechanic, the same may be considered expeditiously after hearing the petitioner and be disposed of in accordance with the rules. Accordingly, the petitioner submitted his representation to the Department. Finally, a speaking order was passed on 13/14.09.2012, rejecting his request for upgradation of the post of Junior Maintenance Mechanic at par with Vocational Instructor. The petitioner challenged the same before the first respondent Tribunal in O.A.Nos.501 of 2013 and 504 of 2013 which ended in dismissal by orders passed on 01.09.2015 and 07.10.2015 respectively. It was finally held that the plea of the petitioner that the post of Junior Maintenance Mechanic and the post of Vocational Instructor are of the same cadre, deserves to

be rejected, as the post of Junior Maintenance Mechanic is one of the feeder cadres for promotion to the post of Vocational Instructor. We are not inclined to interfere with the said finding, as the same has been rendered on merits. It is also seen that the nature and duties between these two posts are distinct and different. Thus, it has been rightly observed by the Tribunal that the prayer made by the petitioner for upgradation does not deserve consideration. Further, the petitioner was originally working as Junior Maintenance Mechanic and on direct recruitment, he has been posted as Vocational Instructor. Therefore, the question of upgradation of Junior Maintenance Mechanic to that of Vocational Instructor does not arise.

8. In view of the above stated circumstances, the writ petitions are liable to be dismissed and accordingly the same are dismissed. Consequently the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

KM
To

1. The Registrar,
Central Administrative Tribunal,
Chennai Bench,
High Court Building,
City Civil Court Complex, Chennai.

2. The Secretary to Government of India,
Ministry of Labour, New Delhi.

3. The Director General,
Directorate General of Employment and Training,
Ministry of Labour, New Delhi.

+1cc to Mr.V.VIJAYSHANKAR, Advocate, S.R.No. 6537
+2cc to Mr.V.P.SENGOTTUVEL, Advocate, S.R.No. 6320 & 6279
+2cc to Mr.V.P.SENGOTTUVEL, Advocate, S.R.No. 6321 & 6278
(07.06.2018)

W.P.Nos.28404 and 28405 of 2016 and
W.M.P.Nos.19536 to 19538 of 2017

GMI (CO)
TR(19/02/2018)