

1. **CWP-16063-2020**
Date of decision : 18.02.2021

Union of India and others **Petitioners**

versus

Dishant Sharma and others Respondents

2. CWP-16073-2020

Union of India and others **Petitioners**

versus

Sharanjeet Saini and others Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present :- Mr. Praveen Chander Goyal, Advocate
for the petitioners.

Mr. G.S. Sathi, Advocate
for the respondents.

AJAY TEWARI, J. (Oral)

1. This order shall dispose of the above captioned two writ petitions as question of law involved and relief claimed therein are identical. However, for the sake of convenience, facts are being taken from the case bearing **CWP No.16073-2020.**

2. These two petitions have been filed against the order passed by the Central Administrative Tribunal, Chandigarh Bench dated 16.07.2019 whereby the petitioners were granted seniority to the cadre they initially joined service.

3. The brief facts of the case are that the private respondents possessed the technical qualification of ITI Wireman (Electrician). They were appointed as SSK Mates in the petitioners' department. They were originally allotted the trade of Electrician. Subsequently, their trade was changed to Pipe Fitter. Aggrieved by this action, they filed representation but while the same was pending, the petitioners themselves came up with the policy dated 23.05.2016 whereby concession was given to the employees to change their trade and under that policy the private respondents were again given the job of Mate SSK (Electrician). However, as part of that policy, they have given undertaking that they would accept the place at the bottom of the seniority and this is the action which has been challenged before the Tribunal. The Tribunal has allowed the OA and that is how the petitioners are before us.

4. Learned counsel appearing for the petitioners has vehemently argued that once the trade of the petitioners was changed as per the policy then they could not have given the seniority because the policy took a complete view of the picture.

5. Mr. G.S. Sathi, Advocate appearing on behalf of private respondents has argued that the respondent No.1 had filed a representation to the petitioner (department) that the change of his trade from electrician was neither legal nor was sensible because they were qualified Electricians and were put in a different trade. This could have caused harm and the petitioners have just taken a shortcut by purportedly putting them back to Electrician trade as per policy whereas they should have been put back in view of their representations and this is commonsense that a technical person should not be put in a job that he does not understand.

6. In the first instance, there is no justification why an Electrician should be posted to a different trade when he does not know that job and could have ended up causing some kind of damage. It has also not been disputed that they had represented against the illegal action of the petitioners and merely because in the meantime the policy came and the petitioners reverted them back to the job of Electrician, purportedly under the policy would not take away their right, once the original action of transferring from the post of Electrician is arbitrary and thereafter when the petitioners were taken back, the petitioners-department could not be allowed to take benefit of their own wrong.

7. In the circumstances, the petitions are dismissed.

8. Since the main case has been decided, the pending Civil Misc. Application(s), if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

18.02.2021
m. sharma

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No