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W.P.No.30274 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.08.2024

PRONOUNCED ON : 04.09.2024

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR. JUSTICE G.ARUL MURUGAN

WP.No.30274 of 2006

1. The Union of India

Rep. By the Secretary, Ministry of Defence
Department of Defence Production,
New Delhi.

2. The General Manager,
Heavy Vehicles Factory,
Avadi, Chennai – 600 054.

... Petitioners

Vs

1. A.Nagarajan
2. E.Rajangam
3. K.Balakrishnan
4. P.Arunagiri
5. A.C.Muralidharan
6. V.S.Arumugam
7. Mohammed Hayat Basha
8. V.R.Devaraj
9. R.Arunagiri
10. V.Ravi
11. R.Vasudevan

12. The Central Administrative Tribunal
Rep. By its Registrar,
City Civil Court Buildings,
High Court, Chennai -600 104

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records of the 12th Respondent pertaining to the impugned order in O.A.No.609 of 2004 dated 01.03.2006 and quash the same.

For Petitioners : Mr.A.R.L.Sundaresan
Additional Solicitor General
for Mr.B.Sudhir Kumar, SC GSC

For R2, R4, R6,
R7 & R10 : Mr.B.K.Girish Neelakantan

For R5 & R8 : Dr.R. Gouri

For R12 : Central Administrative Tribunal

For R1, R3,
R9 & R11 : Tapal returned with an endorsement
“ Want of Time”

ORDER

(Order of the Court was made by G.ARUL MURUGAN,J.)

This Writ Petition is preferred by the Union of India challenging the order passed by the Central Administrative Tribunal dated 01.03.2006 in O.A.No.609 of 2004.

2. The respondents 1 to 11 had filed the application before the Tribunal challenging the order dated 24.03.2004 passed by the petitioners, wherein their claim for promotion to Highly Skilled Grade from the date of eligibility by operating 60:40 ratio in Wireman Trade has been rejected.



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3. The private respondents/applicants had been working under the Ministry of Defence as Wireman Skilled and based on the proceedings of the Board dated 30.05.1998, a competency test for Wireman was introduced by which, the employee by passing the competency trade test will be eligible to be designated as Electrician. Even though the post of Wireman and Electrician are Skilled Grade with the same parity of scale, but however the avenue of promotion from the post of Wireman can only be to the level of Highly Skilled Grade but whereas the avenue of promotion from the post of Electrician will be a Chargeman or Master Craftsman and thereby having a further channel of promotion.

4. It is on account of the above circumstances that by proceeding dated 30.05.1988, the competency trade test was brought in, wherein the Wireman on voluntary basis can undertake the competency test and on being successful, they will be re-designated as Electrician Skilled Grade. The respondents have appeared for competency test on 18.06.1997 and they have been re-designated to the post of Electrician as on 31.07.1997 and had been working in such post.

5. While so, the Government issued proceedings in No.11(1)/2002/D(Civ.I) dated 20.05.2003 for Restructuring of Cadre of



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Artisan Staff in Defence Establishments. As per the proceedings, Highly Skilled- I and Highly Skilled- II were merged together which is to take effect from 01.01.1996 and the grade structure of Skilled and Highly Skilled categories shall be in the ratio of 65:35 (20+15). The placement of individuals in the post resulting from the restructuring and ratio revision to be made with effect from 01.01.1996 as a one time measure. These provisions as a special case will also applicable to the employees who had retired or died after 01.01.1996.

6. Due to the issuance of the above proceedings, the respondents have made representations contending that, even though they had been appointed as Wireman in the year 1988 itself, they continued in such post till 29.07.1997 and due to misguidance regarding the Wireman Grade Ratio, they have not claimed the benefits of the said ratio till 19.05.2003. Therefore they have claimed the grant of benefits in such a way that they are not placed below their juniors.

7. By an order dated 28.03.2004, the claim of the respondents came to be rejected on the ground that since they have been re-designated to the post of Electrician Skilled Grade on 30.07.1997 by appearing in the competency test on their own volition and got promoted to Highly Skilled



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Grade in Electrician Grade, they cannot maintain the claim. It is against this rejection order, the respondents had approached the Tribunal in O.A.609 of 2004 which was allowed by an order dated 01.03.2006, which is the subject matter of the challenge in this Writ Petition.

8. Mr. A.R.L.Sundaresan, learned Additional Solicitor General appearing for the petitioners submitted that the respondents who were working as Wireman have undertaken the competency test on their own willingness and on being successful, they had been designated as Electrician on 31.07.1997. Even though the post of Wireman and Electrician fall under the skilled category, still there are two lines of promotional benefits. When the Wireman had only chance of getting promoted till the level of Highly Skilled Grade-I, however the avenues of promotions for the post of Electrician were to further other levels and therefore once the respondents had got themselves re-designated as Electrician, they cannot claim any benefits in the category of Wireman.

9. The learned Senior Counsel further contended that, by the proceedings dated 20.05.2003 issued by Ministry of Defence, only the Highly Skilled Grade I and Highly Skilled Grade II were merged as Highly Skilled and that will not bring any change in the category of the



respondents as they all admittedly fall under the skilled category. It is also brought to the notice of this Court that as on 01.01.1996, the effective date as fixed in the proceedings dated 20.05.2003, there were 28 employees, out of which, 5 were from Highly Skilled Grade I, 5 were from Highly Skilled Grade II and 18 employees were under Skilled Category and therefore after merger, only the employees in the Highly Skilled I and Highly Skilled II got merged into 10 and the eighteen employees under the Skilled Category remained the same.

10. The learned Senior Counsel further contended that, even though by proceedings dated 20.05.2003, the merger was made with effect from 01.01.1996, there was no increase in the strength or promotional post in Wireman Trade for the period from 01.01.1996 to 01.01.1997 and even the respondents had remained as Wireman, within this period from 01.01.1996 to 31.07.1997 and there was no change in the position and no junior was promoted.

11. The learned Additional Solicitor General, based on the instructions further submitted that the respondents after having been re-designated as Electricians Skilled in the year 1997 have been promoted to various posts as per the hierarchy and except two of them who are



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further contended that the Tribunal erroneously came to the conclusion that the proceedings dated 20.05.2003 had not been acted upon and promotions were not been effected only to these category of respondents by applying the ratio fixed therein and allowed the O.A, which is unsustainable and prayed for interference of this Court.

12. The learned counsels appearing for the contesting respondents 1 to 11 vehemently contended that when the Department had issued proceedings dated 20.05.2003 by fixing the ratio with effect from 01.01.1996, then automatically the respondents who had been working as Wireman as on 01.01.1996 ought to have granted benefits and they should have been considered for promotion in the category of Wireman by considering their length of service. It is also the contention that, when both the post of Wireman and Electrician are under Skilled Category having the same pay scale, the petitioners cannot deny the benefit to the respondents only on the ground that they had been designated as Electrician.

13. The learned Counsels further contended that, when the Department had chosen to implement the orders in respect to other category of employees, they cannot selectively deny the claim of the

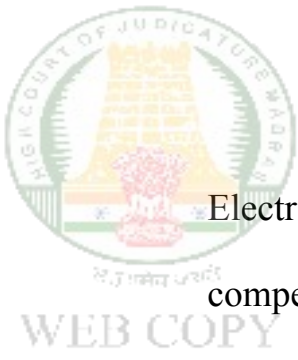


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respondents alone, which amounts to discrimination. It is the further contention that, only by taking note of the fact that the ratio has been fixed by the proceedings dated 20.05.2003, the same has to be acted upon and the respondents ought to have been granted the benefits flowing from that order, the Tribunal had rightly allowed the applications which needs no interference and sought for dismissal of this petition.

14. Heard the rival submissions and perused the materials available on record.

15. The respondents 1 to 11 were all employees working under the 2nd respondent in the Ministry of Defence as Wireman Skilled Grade. Based on the expert classification committee report, the Defence Ministry had issued orders dated 15.10.1984 identifying 23 trades as ratio trades, wherein 23 posts were upgraded from Semiskilled to Skilled Grade. The post of Wireman was not included in the list of 23 posts and the only avenue of promotion from the post of Wireman Skilled is to the Highly Skilled Grade II and thereafter to the post of Highly Skilled Grade I, whereas in respect to the other trades, there were further avenues of promotion from Highly Skilled Grade I. The Ministry of Defence issued proceedings dated 30.05.1998 by bringing in a competency test in



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Electrical Trades, wherein the Wireman skilled grade after passing the competency test will be designated as Electrician (Skilled Grade), which is a ratio trade.

16. Both the post of Wireman and Electrician were in the same skilled category and also same pay scales but further avenues of promotions will vary. Therefore, it was upon the employees to undertake the trade test for getting themselves designated from Wireman to the post of Electrician. The respondents 1 to 11 had on their own volition appeared for the competency test on 18.06.1997 and on being successful they had been designated as Electrician (Skilled Grade) on 31.07.1997 and they had been working there and as per their service, they had been promoted to various higher posts in the Electrician trade.

17. While so, the Ministry of Defence issued proceedings in No.11(1)/2002/D(Civ.I) dated 20.05.2003 for Restructuring of Cadre of Artisan Staff in Defence Establishments. By this proceedings, the post of Highly Skilled Grade I and Highly Skilled Grade II were merged with effect from 01.01.1996 and the Grade structure of Skilled and Highly Skilled categories shall be in the ratio of 65:35. This restructuring in the ratio will also be made in the relaxation of the conditions including Trade



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Test etc as one time measure and also as a special case will be applicable to the employees who have either retired or died after 01.01.1996. As such, from the date of issue of this orders all trades (including left out Trades) will be in the ratio prescribed thereunder.

18. The private respondents who had all been admittedly working as Wireman (Skilled) and had appeared in the competency test and got themselves designated as Electrician on 31.07.1997, had submitted representations claiming that since they have been appointed in the year 1988 and worked as Wireman till 29.07.1997, they have to be granted the benefits by considering the proceedings dated 20.05.2003 issued by the Ministry of Defence. But however, by an order dated 24.03.2004, their claim came to be rejected on the ground that, since all of them were re-designated as Electrician Skilled Grade on 30.07.1997, they were not entitled to any benefits as claimed in the category of wireman. Further, the private respondents had again made detailed representations on 15.04.2004 requesting for review and to operate the promotion ratio of Wireman Trade considering the services rendered as Wireman from 1984 to 1997 and sought for promotion to Higher Grade in the category of Wireman Trade itself. By a detailed order dated 25.05.2004, the claim of the private respondents were considered and the same was rejected. The



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order is extracted hereunder:

*ADMINISTRATION AND PERSONNEL DIVISIONAL
(LABOUR BUREAU)*

No.01286/LB/26004

Dt.25 May 2004

*Sub : Request for promotion to HS Grade by operating in
Wireman trade*

Ret: Your representation dt .4 2004

*Your representation cited under reference has been
examined.*

*In this connection it is stated that as per the then
existing rules, the Promotion ratio of 60:20:20 was
applicable only to ratio trades. Since, wireman trade was
not a ratio trade, the Promotion ratio was not operated in
Wireman trade. It may also be noteworthy to mention that
based on policy, decision of Govt. (MOD/OFB) the trade of
Wireman having been adjudged due to technological content
involved has not been included as one of the ratio trades
which was acceptable and followed in whole of
organization.*

*There is a provision in the existing rules that Wireman
Skilled grade employees can be re-designated to Electrician
Skilled grade on passing of competency test as well as trade
test. There is no compulsion. Since there is a provision in the
existing rules Wireman Skilled grade employees are allowed
to become Electrician Skilled grade by re designation on
passing of competency test and trade test for Electrician*

Skilled grade, on their own volition, which is in order and no



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compulsion is made at any point of time to force individual to become Electrician.

Since there is a provision in the existing rules to fill up the Electrician vacancies through wireman trade, no electrician was recruited directly from 1977 to 16-12-2003 and Electrician trade vacancies were filled up through wireman, which is in order.

The hierarchy of Electrician trade was from Semi-Skilled to Master Craftsman where as the hierarchy of Wireman trade was from Semi-Skilled to Highly Skilled grade I only as per existing SRO which is also accepted all over organization and not a phenomenon of this factory alone. Wireman trade does not have the scope/ channel to get promoted beyond HS grade I Whereas Electricians has open channel of promotion to Chargeman or Master Craftsman after getting promoted from HS Gr. I. Moreover there is a provision in the existing rules to allow Wireman Skilled grade employees to become Electrician Skilled grade. Hence Wireman Skilled grade employees who have passed Competency Test and Trade test on their own volition are being re-designated as Electrician Skilled grade.

Your contention that the provisions of SRO-18 E of 1989, & SRO 185 of 1994 and instruction/guidance letters of DOPT/MOD/OFB Lr. No. 11(1)/2002/D(Civ-1) dt. 20-5-03 and No. 01 Cadre Re-structuring/A/1 dv 12-7-2003 are intentionally ignored is incorrect as promotions were effected by following the above Rules/instructions in all the trades and grades wherever vacancies available.



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You may also please note that even orders on policy decision to implement inter grade ratio has not given exemption from prescribed competency Test which is mandatory as per a Statutory Act of Parliament namely the 'Indian Electricity Act'.

As per the existing Act rules the financial benefit allowed under the ACP Scheme shall be final and no pay fixation benefit shall accrue at the time of regular promotion ie., posting against a functional post in the higher grade, Since you were granted ACP-I in the scale of pay of Rs.1000 – 6000 wef 9-8-99 you are not entitled for pay fixation benefit at the time of regular promotion to HS, which is in order.

Your contention that even the promotion ratio of Electrician trade is not updated till 19.5.2003 is incorrect as based on the 60:40 ratio promotions were effected Electrician trade up to 19-5-2003.

As you were re-designated to Electrician Skilled grade on 30-7-97 after you have appeared and passed Competency Test and then trade test for Electrician skilled grade in your own interest, you are not entitled for promotion to Wireman Highly Skilled grade based on the ratio revision for which orders were issued on 20.05.2003.

AWM/Admin-11

19. This rejection order dated 25.05.2004 had not been challenged by the private respondents, but however they have preferred O.A.No.609



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of 2004 before the Central Administrative Tribunal, Chennai only challenging the order dated 24.03.2004 with the consequential prayer for direction to operate the ratio as fixed in the proceedings dated 24.03.2004. When the claim was considered in detail and came to be rejected by order dated 25.05.2004, the respondents have consciously not challenged the order of rejection, which is detrimental to their claim.

20. Be that as it may, the sum and substance of the claim of the private respondents is that, since by proceedings of the petitioners dated 20.05.2003, the ratio has been re-fixed with effect from 01.01.1996, they have to be granted benefits as they were working as wireman as on 01.01.1996. However in this proceedings, only two categories ie., Highly Skilled I and Highly Skilled II were merged. By re-fixing the ratio, the respondents can no way be aggrieved as they were only working as Electrician in the Skilled category. Further, prior to 1996, they had been working as Wireman and the post of Wireman was not listed as ratio trade and their promotion was limited only to Highly Skilled Grade II and Highly Skilled Grade I. Even by proceedings dated 20.05.2003, the benefits were granted only with effect from 01.01.1996 and as such they cannot make a claim for considering their service in the category of Wireman Trade prior to 01.01.1996. Therefore, the argument of the



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private respondents that since they had put in service in the category of Wireman from 1984 to 1997 has to be considered for promotion is liable to be rejected as even the proceedings dated 20.05.2003 is applicable only with effect from 01.01.1996.

21. The next contention of the private respondents is that, since both the post of Wireman (Skilled Grade) and the post of Electrician (Skilled Grade) are the same without any differentiation in pay scales, the benefits that is applicable to them cannot be denied simply because they had been re-designated as Electricians. From the details furnished by the Department, it could be seen that, irrespective of petitioner's being as Wireman or the subsequent re-designation as Electrician on 31.07.1997, as on 01.01.1996 total number of 28 persons had been working in the Wireman Trade and out of which, 5 were Highly Skilled Grade I and 5 were in Highly Skilled Grade II and 18 persons were in Skilled Category. Even after the merger of Highly Skilled I and Highly Skilled II category, still 18 number of persons continued to be in the Skilled Category and for the period from 01.01.1996 to 31.07.1997, no one had been promoted to the next category and only based on the competency test, the respondents have been re-designated as Electrician Skilled. When there was no vacancy or any promotion effected during this period, wherein any of the



Juniors of the respondents had availed any benefit, the respondents had failed to demonstrate as to on what basis they are entitled for any benefits based on the merger of ratio effected through MOD proceedings dated 20.05.2003. Therefore, the claim of the respondents on this ground cannot be countenanced and liable to be rejected.

22. When there were two separate trades having a separate line of promotion and the post of Wireman trade was not included in the list of ratio trades, the 60:40 ratio was not applicable to the Wireman cadre from 01.01.1996 to 19.05.2003 and only after the implementation of the Ministry of Defence proceedings dated 20.05.2003, they are entitled for the further avenues of promotion as like other trades and only since the respondents cleared the competency test and having been designated themselves as Electrician, the trade ratio of 60:40 has been made applicable to them. Most of the private respondents have been promoted as per their hierarchy from Electrician Skilled to Electrician HS II, Electrician HS I and thereafter to Chargeman, Master Craftsman and got superannuated and still some are working as Junior Works Manager (Gazetted Post).

23. When the respondents have worked as Wiremen as on 01.01.1996 from the date on which the MoD proceedings dated



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20.05.2003 is given effect to, the fact remains that from this proceedings only the HS I and HS II categories have been merged and as far as the respondents who were under the Skilled Categories were not touched. Further within this period from 01.01.1996 to 31.07.1997, the date on which they were re-designated as Electricians, the fact remains that there has been no increase in the sanctioned post of Wireman trade and also no promotions had been effected to any of their Juniors to the post of Highly Skilled.

24. From the above facts, it is clear that the respondents can in no way be aggrieved as they do not stand to gain any benefits within the period from 01.01.1996 to 31.07.1997 and while such being the position, the Tribunal had directed the respondents to operate the ratio for Highly Skilled Grade as per order dated 20.05.2003 and grant consequential promotions is not based on the proper appreciation of the facts of the present case.

25. For all these reasons, the order passed by the Tribunal is liable to be interfered with and accordingly the impugned order in the Writ

Petition is hereby set aside.

<https://www.mhc.tn.gov.in/judis>



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26. Resultantly, the Writ Petition stands allowed. No costs.

(A.S.M.,J)

(G.A.M.,J)

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Index: Yes/No

Neutral Citation : Yes/No

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