



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.1695 OF 2023

[Shri Ashish Purushottam Ekare Vs. The Union of India and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.

Court's or Judge's order

Shri M.G. Burde, Counsel for Petitioner.

Shri S.A. Chaudhari, Counsel for Respondent Nos.1 to 3.

CORAM : ANIL S. KILOR AND RAJNISH R. VYAS, JJ.

DATE : 24th NOVEMBER, 2025.

1. In the present petition, the order dated 6th November, 2019 passed by the Central Administrative Tribunal, Mumbai Bench, Circuit Bench sitting at Nagpur in Original Application No.2091 of 2017 is under challenge.

2. The brief facts of the present case are as under :

(i) The petitioner was appointed on 3rd February, 2011 as Electrician (Semi-Skilled) (Group 'C' Post) at Ordnance Factory Ambernath, District Thane and on completing two years of regular service and passing the prescribed trade test as per SRO 185 dated 1st November, 1994, he was promoted as Electrician (Skilled).

(ii) The petitioner sought transfer on mutual basis to Ordnance Factory, Chanda, Bhadrawati, District Chandrapur with Shri Amol S. Chaudhari, Danger Building Worker (Semi-Skilled). On acceptance of his application for mutual transfer by the General Manager, Ordnance Factory, Ambernath and General Manager, Ordnance Factory, Chanda, Bhadrawati, he was relieved from Ordnance Factory, Ambernath and joined at Ordnance Factory Chanda, Bhadrawati on 15th September, 2024. Similarly, Shri Amol S. Chaudhari joined at Ordnance Factory, Ambernath.

(iii) Before the transfer of the petitioner, the respondent No.3 had obtained an undertaking from the petitioner on 4th July, 2013 for

re-designating him from the post of Electrician (Semi-Skilled) to the post of Danger Building Worker (Semi-Skilled). Similar undertaking was also obtained from Shri Amol S. Chaudhari. Vide order dated 12th November, 2024, the petitioner was re-designated and appointed as Danger Building Worker (Semi-Skilled) from 5th November, 2014. Then on 3rd November, 2017, seniority list of Danger Building Worker (Semi-Skilled) and Danger Building Worker (Skilled) Grade-II was notified.

(iv) The petitioner submitted his complaint to the respondent No.3 on 16th October, 2015 and 22nd March, 2017 for correcting the error of his re-designation as Danger Building Worker (Semi-Skilled) in the order of 12th November, 2014 and his placement in the seniority list. However, the respondent No.3 did not redress his grievance, which led to filing of the Original Application before the Tribunal.

3. It is the case of the petitioner that on the date when the request was made to transfer the petitioner on mutual basis in place of Shri Amol S. Chaudhari, working as Danger Building Worker (Semi-Skilled) at Ordnance Factory, Chanda, he was working as Electrician (Semi-Skilled). Such request was made by the petitioner as well as Shri Amol Chaudhari and the same was accepted on 12th November, 2024. However, in the meantime, both were granted Skilled Grade, which is higher than Semi-Skilled Grade. Thus, it is the case of the petitioner that despite he was working on Skilled Grade, he has been wrongly shown as Danger Building Worker (Semi-Skilled).

4. Shri S.A. Chaudhari, learned counsel appearing for the respondent Nos.1 to 3, has opposed the contentions of the petitioner and submitted that the learned Tribunal has rightly held against the petitioner, as he had given an undertaking to work as Danger Building Worker (Semi-Skilled).

5. We have considered the submissions of the learned counsel for the respective parties and perused the report with the help of the learned counsel.

6. The learned Tribunal, while denying the relief to the petitioner, has held as follows :

“4(b) The undisputed facts are that the present applicant and Shri Amol S. Chaudhari were working in different trades and grades i.e. as Electrician (Semi-Skilled) with Ordnance Factory, Ambernath and as DBW (Semi-Skilled) at Ordnance Factory, Chanda respectively when they requested for their inter-factory transfers on mutual basis on compassionate grounds vide applications dated 15.03.2013 and 25.05.2012. Both of them had also submitted undertaking to be re-designated for the exchanged posts in the trades and grades. To accommodate them on compassionate grounds their applications were accordingly processed by the two Ordnance Factories and with concurrence of General Managers of both the factories as per the inter-factory transfer policy dated 29.11.2006, their mutual transfers on re-designation basis were approved.

4(c) In the undertaking submitted by the present application on 04.07.2013 (page 48), he had agreed to get re-designated (with protection of his pay) in his own interest to the trade of DBW (Semi-Skilled) in the existing grade on joining at Ordnance Factory, Chanda, Bhadrawati and to forego his seniority which shall be reckoned from the date of his joining at Ordnance Factory, Chanda, Bhadrawati. Accordingly, after joining at Ordnance Factory, Chanda, Bhadrawati, the applicant was re-designated as DBW (Semi-Skilled) from 05.11.2014 vide factory order dated 12.11.2024.

4(d) As submitted by the respondents, since his transfer on compassionate ground had been approved based on his undertaking

to get re-designated, as per condition of his transfer and the undertaking, the Ordnance Factory, Chanda, Bhadrawati conducted a trade test for him for DBW (Semi-Skilled), which he passed and he was re-designated accordingly. Therefore, we do not find anything illegal or wrong in the action of the respondents in re-designating the applicant as DBW (Semi-Skilled) from 05.11.2014 after joining at Ordnance Factory, Chanda, Bhadrawati.”

7. From the above-referred findings, it is evident that the learned Tribunal has failed to consider the fact that before the petitioner was transferred on the post of Danger Building Worker, he was promoted from Semi-Skilled Grade to Skilled Grade. The undertaking, which was given by the petitioner, was of the date when the petitioner was working on Semi-Skilled Grade and not after he was promoted to the Skilled Grade. Since the transfer of the petitioner from the post of Electrician to the post of Danger Building Worker was after his promotion from Semi-Skilled Grade to Skilled Grade, such transfer ought to have been as Danger Building Worker (Skilled Grade). It is pertinent to note that even on the date of the transfer of the petitioner as Danger Building Worker, Shri Amol Chaudhari, in whose place the petitioner is transferred, was also Skilled Grade and, therefore, as per the rules, since both Shri Amol Chaudhari and the petitioner were Skilled Grade, there was no occasion for the respondents to treat the petitioner as Semi-Skilled Grade.

8. In the circumstances, we are of the opinion that the reliefs sought in the Original Application need to be granted by setting aside the impugned order dated 6th November, 2019 passed by the Tribunal.

9. Accordingly, we pass the following order :

(I) The petition is allowed.

(II) The impugned order dated 6th November, 2019 passed by the Tribunal is hereby quashed and set aside.

(III) Original Application No.2091 of 2017 is allowed in terms of prayer clauses 8.1 to 8.4, which are reproduced below :

“8.1 That, the Hon’ble Tribunal be pleased to declare the impugned order issued by Respondent No.3; vide Factory Order No.41 dated 03.01.2017 (Annex.A-1), for employment of the Applicant as D.B.W. (Skilled) w.e.f. 05.11.2016; without correcting the error(s) of downgrading him from the post of Electrician (Skilled) to the post of D.B.W. (Semi-Skilled), as stated in para 1.2, as illegal and set it aside to the extent of its illegality.

8.2 That, the Hon’ble Tribunal also be pleased to declare the impugned order issued by Respondent No.3; vide its Factory Order No.4439 dated 12/11/2014; for downgrading the Applicant, on the pretext of redesignation, from the post of Electrician (Skilled) to D.B.W. (Semi-Skilled) illegally; and re-fixation of pay and fixation of seniority made accordingly, as illegal and set it aside to the extent of its illegality (Annex.A-2).

8.3 That the Hon’ble Tribunal further be pleased to declare the impugned Seniority List of Highly Skilled Gr.-II as on 06.01.2017 published by the Respondent No.3; in which the names of Applicant’s juniors in the Skilled Grade

have been shown by granting them promotion to High Skilled Grade illegally; without considering the name of Applicants, as illegal and set it aside to the extent of its illegality (Annex.A-3).”

(IV) The respondent No.3 is directed to grant consequential benefits to the petitioner within a period of eight weeks from today.

(RAJNISH R. VYAS, J.)

(ANIL S. KILOR, J.)