
(2020) 01 CAT CK 0033

In the Central Administrative Tribunal

Case No : Original Application No. 615 Of 2014, Miscellaneous Application No. 521 Of 2014

Yogesh Sharma And Ors

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 21-01-2020

Acts Referred:

Citation : (2020) 01 CAT CK 0033

Hon'ble Judges : L. Narasimha Reddy, J;A. K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : MK Bhardwaj, Piyush Gaur

Final Decision : Disposed Of

Judgement

L. Narasimha Reddy, J

1. In the EME Wing of the Ministry of Defence, there exist the skilled and highly skilled Grades, with the distribution of 45:55. As regards highly skilled, there used to be a further facility of upgradation to the extent of 25% of that grade to the level of Master Craftsmen (MCM) on completion of 10 years of service and subject to their ACRs being found fit. The applicants were initially appointed as skilled and highly skilled on 25.03.2003. Between the years 2007 and 2009, they were elevated to the level of MCM.

2. In the course of the restructuring of the Wing, it was decided on 14.06.2010 that the post of MCM shall be treated as a promotional avenue in light of this development. Representations are also said to have been received, complaining overlooking of seniority, when the applicants were elevated as MCM. Show cause notices were issued to the applicants on 04.02.2014, requiring them to explain as to why their upgradation to the MCM be not withdrawn. This OA is filed, challenging the action of the respondents in proposing to withdraw the benefit of MCM extended to the applicants.

3. It is stated that their elevation was much prior to the restructuring of the

department and there was absolutely no basis for proposing to withdraw the same. They deny the alleged irregularities, when they were made MCM.

4. The respondents filed a counter affidavit, opposing the OA. It is stated that the necessity to issue show cause notice arose on account of the restructuring of the department and on account of the fact that some of the highly skilled craftsmen, who were senior to the applicants, were left over and at a later stage, they were promoted and the applicants are liable to be reverted.

5. We heard Shri M.K. Bhardwaj, learned counsel for the respondents and Shri Piyush Gaur, learned counsel for the respondents.

6. The OA is filed, challenging the individual show cause notices issued to the applicants. The show cause notice reads as under:-

"1. It is intimated that as per Govt. of India, Min. of Def. OM No.11(5)/2009-D(Civ) dated 14 Jun 2010 the post of MCM shall be part of hierarchy and placement of Highly Skilled in the grade of MCM will be treated as promotion w.e.f. 01 Jan.2006. Prior to Refer to the issue of Govt. letter dated 14 June 2010, junior tradesmen were elevated to MCM through BOO post Jan. 2006. Due to ibid change in the policy, all Master Craftsman board held between 01 Jan.2006 to 14 Jun 2019 have been reviewed by a screening committee held from 27 Sep 2012 to 03 Jul 2013 to ensure promotions to Master craftsman be done strictly as per seniority.

2. It is further intimated that in the said review committee, your name has been recommended for reversion to your previous grade/post from where you have been elevated to Master Craftsman from the date you were elevated to Master Craftsmen, as persons senior to you are required to be promoted to Master craftsman prior to you as per promotion policy against the existing vacancies.

3. It is also intimated that on reversion, your pay will be fixed as per FR 31A and no recovery will be done for the excess payment drawn by you for the period you performed the duties of Master Craftsman.

4. Therefore, you are hereby reverted back to your previous grade/post from where you had been elevated to the present post i.e. Master Craftsman. In case you have any representation against this order, your reply should reach this office with in seven days from the date of receipt of this letter."

7. Two reasons were mentioned. The first is that the grade of skilled and highly skilled was restructured and the post of MCM was treated as a promotional avenue. The second is that when the applicants were conferred benefit of MCM, many seniors to them were left out and at a later stage, they have been promoted.

8. Normally, the applicants have to file their explanation and the respondents are required to take the same into account and to pass a final order. It is brought to our notice that in OA No. 60/2014, the Cuttack Bench of this Tribunal passed an

order on 27.08.2019, directing that the respondents can take a final decision, having regard to the fact that the restructuring was only from the year 2010 and the promotion or upgradation made earlier thereto can be protected to the extent possible. The ultimate discretion was, however, given to the concerned respondent.

9. It is also brought to our notice that in compliance with the directions issued in the OA, AD Static Wksp Gopalpur passed an order dated 04.12.2019 to the effect that there is no necessity to revert the applicants in that OA.

10. The question as to whether the same situation obtains in respect of the applicants in this OA also, and if so, what are the measures to be taken, needs to be examined by the respondents. We do not propose to record any definite and clear findings in this behalf.

11. We, therefore, dispose of the OA, directing the respondents to pass appropriate orders by treating the contentions raised by the applicants herein as reply to the show cause notice. The adjudication undertaken by this Tribunal in OA No. 60/2014 shall also be kept in view. The exercise in this regard shall be complied with, within a period of two months from the date of receipt of a copy of this order.

Pending MA, if any, shall also stand disposed of.

There shall be no order as to costs.