

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 260/00176 of 2016

Reserved on 15.04.2024

Pronounced on 25.04.2024

CORAM:

THE HON'BLE SHRI SUDHI RANJAN MISHRA, MEMBER (J)
THE HON'BLE SHRI PRAMOD KUMAR DAS, MEMBER (A)

Manoranjan Mishra, aged about 50 years, Son of Late Lokanath Mishra, permanent resident of Village/P.O. Sarangadharapur, P.S./Via-Rajranpur, District-Nayagarh and at present working as Air Craft Assistant Junior Field Assistant, JFA (ACA), ARC, Charbatia, P.O.Charbatia-754028, District-Cuttack.

.....Applicant

VERSUS

1. Union of India, represented through its Secretary to Government of India, Ministry of Cabinet Secretariat, Aviation Research Centre, New Delhi- 110001.
2. Special Secretary, Aviation Research Centre, Head Quarter, New Delhi-110066.
3. Director General of Security (Cabinet Secretariat), East Block-5, R.K. Puram, New Delhi-110066.
4. Assistant Director (Pers-D), Aviation Research Centre, Director of General, Security (Cabinet Secretariat), East Block-5, R.K. Puram, New Delhi-110066.
5. Chief Engineer, Aviation Research Centre, Head Quarter, East Block-5, R.K. Puram, New Delhi-110066.

.....Respondents

For the applicant : Mr. T.Rath, Counsel

For the respondents: Mr. S.Behera, Counsel

O R D E R

PRAMOD KUMAR DAS, MEMBER (A):

The applicant, Sri Manoranjan Mishra, working as Jr. Field Assistant (Air Craft Assistant) in ARC Charbatia, being aggrieved by the order dated 19.09.2014 (A/13), OM dated 19.11.2014 (A/14) and the order dated 18.01.2016 (A/17) has filed this OA with the following reliefs:

“a) admit and issue notices to the Respondents requiring them to file their show-cause/counter to the present Original Application within a stipulated period;

b) and if they fail to show cause, or caused insufficiently, then call for the relevant records from the custody of the Respondent No. 1, 2 & 3;

c) and after perusing the pleadings of both the parties and hearing them, allow this Original Application by quashing the impugned order dtd. 19.09.2014 in Annexure-A/13 and subsequent order dtd. 19.11.2014 in Annexure-A/14 as well as the order dtd. 18.01.2016 of the Respondent No.3, and issue an appropriate order directing the Respondent No. 1 to 3 to review the cadre of promotional avenue of the Applicant in the Grade cadre of SFA (MT) Matric in the Grade pay of Rs.2400/- at par with the cadre of FA (G) and FA (MT), having qualification of Non-Matric and Matric and thereafter the

consequential service benefit and as well as the differential arrear pay with 18% per annum w.e.f. 01.01.2006 within a stipulated period;

d) and pending disposal of the above Original Application, the status quo of the Applicant may be maintained as it has been granted earlier in order dtd.09.11.2015, whichever is later,

d) and pass any other appropriate order (s) as deems proper and fit in the interest of general importance and in the interest of justice.”

2. The respondents have filed their counter contesting the stand taken by the applicant in this OA and objecting to the prayer made therein with prayer that this OA being devoid of any merit is liable to be dismissed. The applicant has also filed rejoinder making endeavour to contest that the stand taken by the respondents in their counter is not at all justifiable and, therefore, the relief sought in the OA should be granted.

3. It is the case of the applicant that ARC came into existence in the year 1963. The promotional post of Air Craft Cleaner is the post of Helper and so on. In 1971, a memorandum was issued stating therein that post of Air Craft Cleaner and Packer are Class-III posts. The 3rd Pay Commission recommended that there shall be provision for selection grade where there is no promotional avenue. On 06.03.1977, ARC (Air

Wing Staff) Recruitment Rules, 1977 was published. In the said rules, the Air Craft Cleaner was placed in the category of Class IV (NG) , the qualification for the said post in the RR was provided as Middle School standard. Subsequently, the AIR Craft Cleaner was redesignated as Air Craft Assistant vide notification dated 05.03.1982. ON 31.05.1982, the post of Air Craft Cleaner was classified as Class III but no promotional avenue was provided. The applicant was appointed as Air Craft Assistant on 18.02.1988. Vide order dated 11.02.1988, candidate appointed as FA Driver having non-matric qualification, in the cadre review, promotional avenue was provided as FA (MT) but the applicant was not promoted. The respondents changed the cadre of the applicant as Air Craft Assistant to JFA (ACA). Various correspondences were made for providing promotional avenues in respect of the posts holding by the applicant but instead of considering the same the respondent authorities vide order dated 19.09.2014 merged the post of JFA (ACA) with Group-D instead of FA (MT) in GP Rs. 2400/-. It is the case of the applicant that he was initially appointed as Air Craft Assistant with qualification matriculate (Group-C) as per 1982 notification and, thus, he should not have been taken within the Group-

D. It is averred that the authorities concerned appointed FA Driver ACA, FA (G), FA (MT) non-Matric and Matric in the pay of Rs. 825-1200/-. Subsequently, they were granted the promotion/upgradation ignoring the case of the ACR Matric. The applicant being a recruitee of ACA having qualification of Matriculation, his case ought to have been considered during the cadre review and he should have been placed in FA (MT) Matric in the pay of Rs. 2400/-. The applicant filed various representations and since the same were not considered he approached this Tribunal in OA 771/2015, which was disposed of on 09.11.2015 with direction to the respondent authority to consider his pending representation. Respondents considered the representation and rejected the same, which is not sustainable in the eyes of law and in the said circumstances, he has filed this OA praying for the reliefs quoted above. On the other hand, the case of the respondents is that the applicant was recruited to the post of Air Craft Assistant in the year 1988 in pay scale of Rs. 825-1200/- (4th CPC), which was the replacement pay scale of Rs. 210-290/- (3rd CPC). As per the Recruitment Rules of 1977 the ACA was in the classification of Class IV and the qualification of Middle School Standard Pass with preference to

the qualification of Matriculation. Prior to 6th CPC Recommendation, all Group-D/Class IV employees were placed in five separate pay scales. The ACA was in the pay scale of S-4 (Rs. 2650-4000/-) before 01.01.2006 (5th CPC). All the five pay scale were placed in PB-I Rs. 5200-20200/- with GP Rs. 1800 as per the recommendation of 6th CPC. As per the policy decision of the Government, all the Group-D posts were abolished and redesignated as Multi Tasking Staff (MTS) and brought under the Category of Group-C. Accordingly, the post of Air Craft Assistant was redesignated as JFA (ACA). It is stated that the nature, duty and responsibility of FA (MT) and FAG in GP Rs. 2000/- is different in comparison to JFA (ACA). In considering the above, RR was framed separately for each cadre. The Selection Grade pay scale earlier in vogue for ACA has been removed. The scheme was withdrawn by the OM dated 13.09.1991. Although the applicant joined the post of ACA in 1988 and the scheme was withdrawn on 13.09.1991. Since the applicant was not meeting out the eligibility to get this benefit, he was not given the same. As a special case, after inviting option of willingness from Air Craft Cleaner who belonged to Class IV they were redesignated as ACA and given the status of Group-C (Class III). After

implementation of 5th CPC and introduction of ACP benefits the applicant was granted the pay scale of Rs. 3050-4590/- w.e.f. 02.02.2000 and financial upgradation under MACP in GP Rs. 2000/- in the scale of Rs. 5200-20200/- w.e.f. 01.09.2008. Since the JFA (ACA) are a part of JFA cadre, it is not feasible to carve out special promotional scheme for them. However, as per the new RR, LDC and FA promotions are open for JFA. There is no provision for JTO-II to be promoted to ACA. JTA-II is a direct recruitment, if any departmental candidate has the eligibility, they may go for direct recruitment. As a matter of policy, all the erstwhile Group-D/Class IV posts including ACA were abolished and treated as MTS. Since the applicant came within the folio, who were designated as MTS, the applicants cannot raise any claim to be isolated from the designation of MTS. As a whole, it is the case of the respondents that this being a matter of policy, judicial interference in the matter is not warranted and the OA is liable to be dismissed.

4. We have considered the rival submission of the respective parties and perused the records.

5. The impugned order dated 19.09.2014 (A/13) is the rejection of

the representations of the applicant, which he had submitted against merger of different grades and pay scales although having different qualifications such as matriculation and non-matriculation inter alia praying for differentiation of pay. The grounds of rejection stated in the impugned order are as under:

“All the erstwhile Group-D posts have been abolished and are now treated as Multi Tasking force and brought under group-C. There is no distinction per se between JFA (ACA) vis a vis other JFAs and hence, there is a common seniority list for all the JFAs. Therefore, it is not possible to carve out a special scheme for better promotional avenues for the Assistants within a common seniority list of JFAs.”

6. The Cabinet Secretariat notification No. A-49011/2/2006/EA.I(i)/4399 dated 04.11.2010 merging different cadres with redesignation was notified in supersession of all earlier headquarter memos vide impugned OM dated 19.11.2014 (A/14).

7. The impugned order dated 18.01.2016 (A/17) is the outcome of consideration of the representations after the order of this Tribunal dated 09.01.2015 in OA No. 771/2015 filed by the applicant earlier. The relevant portion of the order, for the sake of clarity, is quoted herein below:

“The applicant who is JFA(ACA), ARC vide his representations/appeal/

OA referred to ibid has mainly craved for following two issues:-

(1) Grant of promotion from the present Grade pay of Rs.1800/- at par with the cadre of FA(MT)/FA(G), ARC in the Grade pay of Rs.2400/-.

(ii) Opening of Promotional avenue to the post of FA, SFA and AFO.

Para No.3: The issue of promotional hierarchy raised by the applicant and referred to in the preceding para has been examined and it is found that Shri Manoranjan Mishra was recruited in the year 1988 as Assistant in the then pay scale Rs.825-15-990-EB-20-1200/14 (Pay Commission) which was substituted against the pay scale of Rs. 210-4-226-EB-4-250-EB-5-290/- (3rd pay Commission). It is pertinent to mention that as per the recruitment rules 06.03.1977, the post of Assistant which was carrying the aforesaid pay scale were classified as class-IV prior to implementation of 6th CPC and at the relevant point of time educational qualification for the post in question was Middle School standard pass although preferential qualification was matriculation which does not confer right to the applicant to claim service benefits i.e. (Pay Scale Rs.950-1400/-) at par with other candidates which were appointed in Group-C post having metric pass educational qualification.

Para No. 4: With respect to claim pay parity with FA(G) and FA(MT) by the applicant, it is clarified that the nature of duty and responsibility of both the posts as above, drawing higher pay scale, are different in comparison with that of JFA(ACA) which is present post of the applicant. As such, having regard to the duties and responsibilities, RRs have been framed separately for each cadre and same cannot be compared with each other merely on the basis of educational qualification claimed by the applicant. Further, the selection grade pay scale as enumerated in the application by the applicant which was enjoyed by the AC Assistants have been abolished by the Ministry of Finance vide OM No. 10/1/E.III/88 dated 13.09.1991. However in order to compensate the stagnating employees/ cadres the Govt. have introduced In-Situ Promotional pay scale/ACP Scheme which is also applicable to the present applicant.

Para No. 5; Another issue raised by the applicant regarding up-gradation of the Assistants to the post of FA, SFA and AFO, it is made clear that a case in tune with the same was referred to the Vth CPC by the ARC but the same was not acceded to and progress as such was intimated to the applicant by the DD(A), Air wing, ARC vide Memo. dated 9.11.2001. In this connection, it is further elucidated that as per new RRs for LDC and FA, promotions are open for JFAs including present applicant, as 10% of total available vacancies in the post of LDC/FA to be filled through LDCE for which incumbents with 3 years of regular service in the Grade Pay of Rs.1800/- are eligible. In addition, 5% of available vacancies in the post of LDC are to be filled through promotion for which 3 years of regular service in GP Rs.1800/- are eligible which is also applicable to the applicant. Further, after implementation of the 5th CPC & 5 CPC, ACP and MACP benefits have been extended to all the cadres including the applicant.

Para No. 6; Further, consequent upon promulgation of 6th CPC, the pay scale from 2550-55- Rs. 2660-60-3200/- to 2750-70-3800-75-4400/- have been placed in PB-1 (Rs.5200/- to 20,200/- with GP of Rs.1800/-). As per the Govt. of India orders all the Group-D posts have been abolished and now treated as Multi Tasking Staff (MTS) and have been brought under the category of GP-C post. Accordingly, Assistants are re-designated as JFA(ACA) and have been placed in GP-C category. There is no distinction per se between JFA(ACA) vis-à-vis other JFAs. In this connection, it is pertinent to mention here that the Cadre Review in ARC which is held during 2010 is a subsequent exercise in which all the employees in the Grade pay of Rs.1800/- have been treated uniformly and case of the applicant was not treated in isolation. Therefore, it is not possible to carve out a special scheme for different promotional avenue for the JFA(Assistants) who are part of the common seniority list of JFAs having other trades.

In light of the above said detailed position, having regard to the rules and instructions in vogue the Respondents have taken judicious action without making any discrimination As such, prayer of the applicant for grant of promotional avenue does not

hold good being devoid of merit, which disentitles him for the claim he preferred herein.”

8. From the record, we have come across that similar matter came up for consideration before the CAT, Allahabad Bench in OA No. 297/2015 (**Khimananda & Ors Vs. UOI & Ors.**), which has already been dismissed by the Tribunal on 03.04.2024. On examination of the said case vis a vis the case in hand, we find that the issues in both the matter are same and similar. Relevant portion of the order is quoted hereunder:

“4. The facts of the case of the applicants are that the applicants were appointed initially as Air Craft Assistant (ACA) matric in Group C by direct recruitment in the grade of Rs. 825 on 16.11.1987, 10.02.1988 and 11.07.1988. The grievance of the applicants are that they were matriculate and later on in cadre review some class-IV employees of the department were merged with their cadre of Air Craft Assistant (ACA), whereas they were appointed in Group C and merger of Group C & D was prejudicial to their promotional prospect. Further, grievances of the applicants are that some of the cadres were similarly placed like FA(G) and FA(MT) non matric and matric by cadre review were placed in the Grade of Rs. 2400/- with better promotional avenue which was discrimination against the applicants. And the applicants had been trying for their promotion for quite long time and finally gave their representations on 25.07.2014 for review of their cadre and providing them promotional avenue, and the department vide their impugned order dated 19.09.2014 in stead of improving their promotional avenue have down graded their Group C cadre by merging Group D cadre with them and make one cadre of JFA(ACA); in stead of giving them status equal to FA(MT) matric in Rs. 2400/- Grade. Aggrieved by the said order they have approached this Tribunal seeking the relief

and hence their OA should be allowed and they should be granted all the reliefs claimed.

5. On notice, the respondents have filed their counter wherein they say that the applicants in the year 1987-1988 were appointed as Assistant in the then pay scale of Rs 825-15-900-EB-20-1200 (4th pay commission) and said post of Assistant was carrying the pay scale of Class-IV as per the recruitment rules dated 06.03.1977 and they vehemently denied the claim of the applicants that they were appointed initially as Assistant Matric in Group-C . As at that point of time, educational qualification for the post in question was middle school standard pass, although preferential qualification was matriculation which does not confer right to the applicants to claim service benefits at par with other cadres.

6. They further emphatically say that as per 5th CPC, the applicants have been given first Advanced Career Progression (ACP) in the pay scale of 3050-753950-80-4590 w.e.f. 16.11.1999, 11.07.2020 and 10.02.2000 respectively and after implementation of the 6th CPC they have been given the benefit of Modified Advanced Career Progression Scheme (MACP) in the Grade Pay of Rs. 2000/- (5200- 20,200) in pay Band-1 w.e.f. 01.09.2008 and they emphatically say that this speaks by itself that the applicants have been compensated by way of ACP/MACP against their stagnation.

7. They further say that appointment to the post of JTO-II is by direct recruitment, and departmental candidates, if any, have to be judged along with outside candidates. The said orders, relied by the applicant pertains to training of ACA and that after successful completion of training, the candidates may apply for Direct Recruitment for the post of JTO-II. There was never, and there is no provision for promotion to the post of JTO-II from ACA. And they emphatically say that the order dated 11.01.1988 is just an internal policy guidelines which is subject to change, and it does not provide any right or benefit to the ACAs. The respondents further vehemently say that the cadre FA(MT)/FA (Driver) and JFA(ACA) are separate cadres with different type of duties and responsibilities thus cannot be compared by the applicants for parity and hence, the respondents do not agree

with the contention of the applicant as such. They further vehemently contend that the applicants' contention that their grade was downgraded is absolutely incorrect as the erstwhile Group-D employees have been abolished and categorized as Group-C and their duties are distinct from the duties and recruitment rules of FA(MT). Hence, Air Craft Assistant cannot be compared with FA(MT)/FA(G) as claimed by the applicants so the respondents are justified in disposing of the representation of the applicants. And similarity in the applicants' educational qualification they being matriculate and other matriculate cadres which are distinct and having distinct cadre rules, so the applicant's argument that they should get parity is erroneous and cannot be accepted. Hence, there is no merit in the claims of the applicants and accordingly this OA should be dismissed.

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16. Furthermore in a long catena of judgements the Hon'ble Apex Court has ruled that Tribunal and High Court shall not entertain and interfere with the policy making domain of the executive wing of the Government. A double Bench of the Hon'ble Apex Court on 14.12.2023 in Civil Appeal No. 14524 of 2015, Union of India and others vs. Air Commodore NK Sharma (2023 SCC OnLine SC 1673) held that a Tribunal subject to the High Court's jurisdiction under Article 226, cannot be permitted by law, to direct the framing of a policy by the Government. In the said case, one of the issues for consideration was following: "Whether the Tribunal could have issued a direction to the Government to frame a policy for filling up the post of JAG(Air)?" Inter alia other things, the Hon'ble Apex Court observed following:-

"48. It is in consideration of this statutory scheme that we must look for an answer to the question as to whether the Tribunal could have directed the formation of a policy, albeit in regard to a matter affecting the service of armed forces personnel, to adjudicate which, it otherwise possesses the jurisdiction?"

49. Making policy, as is well recognized, is not in the domain of the Judiciary. The Tribunal is also a quasi-judicial body, functioning within the parameters set out in

the governing legislation. Although, it cannot be questioned that disputes in respect of promotions and/or filling up of vacancies is within the jurisdiction of the Tribunal, it cannot direct those responsible for making policy, to make a policy in a particular manner.

50. It has been observed time and again that a court cannot direct for a legislation or a policy to be made. Reference may be made to a recent judgment of this Court in *Union of India v. K. Pushpavanam* where while adjudicating a challenge to an Order passed by a High Court directing the State to decide the status of the Law Commission as a Statutory or Constitutional body and also to consider the introduction of a bill in respect of torts and State liability, observed as under:-

“..As far as the law of torts and liability thereunder of the State is concerned, the law regarding the liability of the State and individuals has been gradually evolved by Courts. Some aspects of it find place in statutes already in force. It is a debatable issue whether the law of torts and especially liabilities under the law of torts should be codified by a legislation. A writ court cannot direct the Government to consider introducing a particular bill before the House of Legislature within a time frame. Therefore, the first direction issued under the impugned judgment was unwarranted.”

51. We may further refer to *Union of India v. Ilmo Devi* wherein the Court, while considering with the case concerning regularization/absorption of part-time sweepers at a post office in Chandigarh observed:-

“The High Court cannot, in exercise of the power under Article 226, issue a Mandamus to direct the Department to sanction and 17 create the posts. The High Court, in exercise of the powers under Article 226 of the Constitution, also cannot direct the Government and/or the Department to formulate a particular regularization policy. Framing of any scheme is no function of the Court and is the sole prerogative of the Government. Even the creation and/or sanction of the posts is also the sole prerogative of the Government and the High

Court, in exercise of the power under Article 226 of the Constitution, cannot issue Mandamus and/or direct to create and sanction the posts.”

52. The above being the settled position of law, it only stands to reason that a Tribunal functioning within the strict boundaries of the governing legislation, would not have the power to direct the formation of a policy. After all, a court in Writ jurisdiction is often faced with situations that allegedly fly in the face of fundamental rights, and yet, has not been entrusted with the power to direct such formation of policy.”

17. Considering all the above we are clear in our mind that no case is made out by the applicants to grant any relief and hence, we pass following orders:-

The present OA is dismissed. All associated MAs stand disposed of accordingly. No costs.”

9. This Tribunal is also reminded by the case of **Jacob Puliyeel Vs. UOI & Ors**, Writ Petition (Civil) No. 607 of 2021, where the Hon’ble Apex Court has observed as under:

“It is well settled that the Courts, in exercise of their power of judicial review, do not ordinarily interfere with the policy decisions of the executive unless the policy can be faulted on grounds of mala fide, unreasonableness, arbitrariness or unfairness etc. Indeed, arbitrariness, irrationality, perversity and mala fide will render the policy unconstitutional. It is neither within the domain of the courts nor the scope of judicial review to embark upon an enquiry as to whether a particular public policy is wise or whether better public policy can be evolved. Nor are the courts inclined to strike down a policy at the behest of a petitioner merely because it has been urged that a different policy would have been fairer or wiser or more

scientific or more logical. Courts do not and cannot act as appellate authorities examining the correctness, suitability and appropriateness of a policy, nor are courts advisors to the executive on matters of policy which the executive is entitled to formulate. The scope of judicial review when examining a policy of the Government is to check whether it violates the fundamental rights of the citizens or is opposed to the provisions of the Constitution, or opposed to any statutory provision or manifestly arbitrary.”

10. The Hon’ble Apex Court in the case of **P.U. Joshi & Ors. vs The Accountant General, Ahmedabad, AIR 2003 SC 2156, held as under:**

“10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy and within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the Statutory Tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its view for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing existing

cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a Government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service.”

11. The policy decision for making all Group-D posts as MTS came up for judicial scrutiny before the CAT, Erakulam Bench of the Tribunal in the case of **Pankajakshan Nair Vs Union Of India** (OA No. 180/01090/2014 disposed of on 21 March, 2016), and taking into consideration the decision of the Hon’ble Supreme Court in the case of P.U. Joshi (supra), the Tribunal held as under:

“12. As regards the issue in the present O.A is concerned, it is the fact that following the VI CPC recommendation, the erstwhile Group D posts have been re-designated as Group C posts and several scale of pay in the erstwhile Group 'D' category were merged together to a new Pay Band with Grade Pay of Rs. 1800/-. Consequent to the re-designation of Group 'D' category as Group C and also upgradation of pay scale, higher education qualification for the posts were also introduced before introducing the concept of multi-skilling of duties. In that overall context, the respondents vide their communication dated 27.12.2012 revised the charter of duties of erstwhile Group 'D' post wherein several existing cadres have been merged into one taking into account the task performed as well as the purpose for easy switching over from one to another. Accordingly, 7 trades which includes JGO were merged into a single head i.e. Multi-Tasking Staff. We do not find anything wrong in such an approach. Further, just because of the erstwhile post of

Lascar and Gestetner Operator had merged into one namely MTS does not amount to or result in any demotion under the revised pay structure as the pay scale of the posts were merged to a single Pay Band of Rs. 5200-20200 with a Grade Pay at Rs.1800/-.

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14. We are of the view that the respondents as an employer has every right to re-organise the cadre structures and effect merger of the cadre or create new cadres based on the necessity and work requirement. Therefore, the exercise undertaken by the respondents following the VI [CPC](#) recommendation by which Group D posts were abolished and converted into Group C posts and laying down revised charter of duties of erstwhile group 'D' posts appears perfectly justified. The merger of seven cadres into one cadre of MTS based on their assessment therefore cannot be faulted. Therefore, we hold the respondents are well within their right in reorganising the erstwhile cadre and merger into one and the order of 27 th December 2012 cannot be held as unjustified.

15. Therefore, after due consideration of all the facts and circumstances of the case, we hold that there is no merit in this O.A and therefore it is liable to be dismissed. The Original Application is accordingly dismissed as above. No order as to costs.

12. The present challenge of the applicant to re-organise the cadre structures and effect merger of the cadre or create new cadres is a matter of policy. We are of the view that the respondents as an employer has every right to re-organise the cadre structures and effect merger of the cadre or create new cadres based on the necessity and

work requirement. Therefore, the exercise undertaken by the respondents following the VI CPC recommendation by which Group D posts were abolished and converted into Group C posts and laying down revised charter of duties of erstwhile group 'D' posts appears perfectly justified. The merger of cadres into one cadre of MTS based on their assessment therefore cannot be faulted with. Therefore, we hold the respondents are well within their right in reorganising the erstwhile cadre and merger into one and the orders impugned in this OA cannot be held as unjustified.

13. Hence, going by the facts and law discussed above, we hold that there is no merit in this O.A and therefore this OA is liable to be dismissed and, accordingly, the same is dismissed. Parties to bear their own costs.

(Pramod Kumar Das)
Member (Admn.)

(Sudhi Ranjan Mishra)
Member (Judl.)

RK/PS