

ARMED FORCES TRIBUNAL, REGIONAL BENCH, KOCHI

O.A Nos. 52, 51, 53, 54, 55, 56, 57, 58, 59, 60
61, 62, 63, 64, 67, 68, 69 and 70 of 2012

FRIDAY, 8TH MARCH, 2013/ 17TH PHALGUNA, 1934.

CORAM:

HON'BLE MR. JUSTICE SHRI KANT TRIPATHI, MEMBER (J)
HON'BLE LT.GEN.THOMAS MATHEW, PVSM, AVSM, MEMBER (A)

O.A.51 OF 2012:

APPLICANT:

LAM.DINESH KADIAN, AGED 26 YEARS,
NO.138858 'N', S/O VEDMANTER,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

BY ADV. SRI. V.K.SATHYANATHAN

versus

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS
SECRETARY, MINISTRY OF DEFENCE,
SOUTH BLOCK, NEW DELHI- 110 011..
2. THE CHIEF OF NAVAL STAFF,
INTEGRATED HEADQUARTERS OF MINISTRY OF DEFENCE (NAVY),
SOUTH BLOCK, NEW DELHI- 110 011.
3. THE COMMODORE, BUREAU OF SAILORS (CABS)
CHEETAH CAMP, MANKHURD, MUMBAI – 400 088.
4. THE FLAG OFFICER COMMANDING -IN-CHIEF
HEADQUARTERS SOUTHERN NAVAL COMMAND,
NAVAL BASE, KOCHI -682 004.
5. THE DIRECTOR,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.52 OF 2012:

APPLICANT:-

LAM.JOJO JOSEPH, AGED 24 YEARS,
NO.213367 'A', S/O JOSEPH.T.J.,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

BY ADV. SRI. V.K.SATHYANATHAN

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NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.53 OF 2012:

APPLICANT:-

LAM. PANKAJ KUMAR, AGED 24 YEARS,
NO.213406 'R', S/O LATE SUBHASH CHAND,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

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NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.54 OF 2012:

APPLICANT:-

LAM. RAVI PRAKASH DOBRIYAL, AGED 28 YEARS,
NO.134605 'Y' S/O OM PRAKASH DOBRIYAL,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

BY ADV. SRI. V.K.SATHYANATHAN

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NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.55 OF 2012:

APPLICANT:-

LAM.TRILOCHAN BEHERA, AGED 27 YEARS,
NO.139435, 'Z', S/O HAREKRUSHNA BEHERA
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

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NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.56 OF 2012:

APPLICANT:-

LAM.A.K.SHARMA, AGED 24 YEARS,
NO.211321 'A', S/O SARWAN K. SHARMA,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

BY ADV. SRI. V.K.SATHYANATHAN

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NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.57 OF 2012

APPLICANT:-

LAM.AMIT YADAV, AGED 27 YEARS,
NO.139319 'K', S/O SUBHASH CHAND YADAV,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

BY ADV. SRI. V.K.SATHYANATHAN

versus

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2. THE CHIEF OF NAVAL STAFF,
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HEADQUARTERS SOUTHERN NAVAL COMMAND,
NAVAL BASE, KOCHI -682 004.
5. THE DIRECTOR,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.58 OF 2012

APPLICANT:-

LAM.DEBASHISA ROUTARAY, AGED 23 YEARS,
NO.213124 Z', S/O.S.CHARAN ROUTARAY,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

BY ADV. SRI. V.K.SATHYANATHAN

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NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.59 OF 2012

APPLICANT:-

LAM. SEKH NASIRUDDIN, AGED 23 YEARS,
NO.213507, 'W', S/O SK.JABBAR ALI,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

BY ADV. SRI. V.K.SATHYANATHAN

versus

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS
SECRETARY, MINISTRY OF DEFENCE,
SOUTH BLOCK, NEW DELHI- 110 011..

2. THE CHIEF OF NAVAL STAFF,
INTEGRATED HEADQUARTERS OF MINISTRY OF DEFENCE (NAVY),
SOUTH BLOCK, NEW DELHI- 110 011..
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CHEETAH CAMP, MANKHURD, MUMBAI – 400 088.
4. THE FLAG OFFICER COMMANDING -IN-CHIEF
HEADQUARTERS SOUTHERN NAVAL COMMAND,
NAVAL BASE, KOCHI -682 004.
5. THE DIRECTOR,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.60 OF 2012

APPLICANT:-

LAM. SHAYAMVIR SINGH, AGED 23 YEARS,
NO.214460 'K', S/O MAHENDRA SINGH,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

BY ADV. SRI. V.K.SATHYANATHAN

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NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.61 OF 2012

APPLICANT:-

LAM. VIKASH SINGH, AGED 25 YEARS,
NO.214703 'N', S/O MADHAW SINGH,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

BY ADV. SRI. V.K.SATHYANATHAN

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NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.62 OF 2012

APPLICANT:-

LAM.MUKTIKANTA BISWAL, AGED 24 YEARS,
NO.214607 'W', S/O K.C.VISWAL
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

BY ADV. SRI. V.K.SATHYANATHAN

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1. UNION OF INDIA, REPRESENTED BY ITS
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SOUTH BLOCK, NEW DELHI- 110 011..
2. THE CHIEF OF NAVAL STAFF,
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SOUTH BLOCK, NEW DELHI- 110 011..
3. THE COMMODORE, BUREAU OF SAILORS (CABS)
CHEETAH CAMP, MANKHURD, MUMBAI – 400 088.
4. THE FLAG OFFICER COMMANDING -IN-CHIEF
HEADQUARTERS SOUTHERN NAVAL COMMAND,
NAVAL BASE, KOCHI -682 004.
5. THE DIRECTOR,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.63 OF 2012

APPLICANT:-

LAM.VIVEKANAND DUBEY, AGED 24 YEARS,
NO.213124 'Z', S/O LATE SRINIVAS DUBEY,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

BY ADV. SRI. V.K.SATHYANATHAN

versus

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS
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SOUTH BLOCK, NEW DELHI 110 011..
2. THE CHIEF OF NAVAL STAFF,
INTEGRATED HEADQUARTERS OF MINISTRY OF DEFENCE (NAVY),
SOUTH BLOCK, NEW DELHI- 110 011..
3. THE COMMODORE, BUREAU OF SAILORS (CABS)
CHEETAH CAMP, MANKHURD, MUMBAI – 400 088.
4. THE FLAG OFFICER COMMANDING -IN-CHIEF
HEADQUARTERS SOUTHERN NAVAL COMMAND,
NAVAL BASE, KOCHI -682 004.
5. THE DIRECTOR,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.64 OF 2012

APPLICANT:-

LAM. YOGESH KUMAR, AGED 25 YEARS,
NO.139317 'F', S/O SATYANARAYANA MITTAL,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

BY ADV. SRI. V.K.SATHYANATHAN

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1. UNION OF INDIA, REPRESENTED BY ITS
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SOUTH BLOCK, NEW DELHI- 110 011..

2. THE CHIEF OF NAVAL STAFF,
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SOUTH BLOCK, NEW DELHI- 110 011..
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CHEETAH CAMP, MANKHURD, MUMBAI – 400 088.
4. THE FLAG OFFICER COMMANDING -IN-CHIEF
HEADQUARTERS SOUTHERN NAVAL COMMAND,
NAVAL BASE, KOCHI -682 004.
5. THE COMMANDING OFFICER,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.67 OF 2012

APPLICANT:-

LAOM.SYAMKUMAR P.S., AGED 23 YEARS,
NO.214559 'K', S/O K.K.VIJAYAN,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

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CHEETAH CAMP, MANKHURD, MUMBAI – 400 088.

4. THE FLAG OFFICER COMMANDING -IN-CHIEF
HEADQUARTERS SOUTHERN NAVAL COMMAND,
NAVAL BASE, KOCHI -682 004.
5. THE DIRECTOR,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.68 OF 2012

APPLICANT:-

LAOM. PANKAJ KUMAR, AGED 24 YEARS,
NO.214879 'N', S/O NETRAPAL,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

BY ADV. SRI. V.K.SATHYANATHAN

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NAVAL BASE, KOCHI -682 004.
5. THE DIRECTOR,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA -682 004.

BY ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.69 OF 2012

APPLICANT:-

LAOM. KAMALJIT N. SINGHA, AGED 26 YEARS,
NO.214901 'N', S/O N.KULAJIT SINGHA,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

BY ADV. SRI. V.K.SATHYANATHAN

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NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

O.A.70 OF 2012

APPLICANT:-

LAOM. SANDEEP K. MALLIK, AGED 24 YEARS,
NO.214625 'K', S/O SHIVA PRASAD MALLIK,
NAVAL INSTITUTE OF AERONAUTICAL TECHNOLOGY,
NAVAL BASE, KOCHI, KERALA-682 004.

BY ADV. SRI. V.K.SATHYANATHAN

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RESPONDENTS:

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NAVAL BASE, KOCHI, KERALA -682 004.

B ADV.SHRI K.M.JAMALUDHEEN, SR. PANEL COUNSEL

ORDER

Shri Kant Tripathi, Member (J):

1. The instant Original Application (O.A.No. 52 of 2012) and connected Original Applications Nos.51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 67, 68, 69 and 70 of 2012 have been filed for the direction to the respondents to promote the applicants to the rank of Aircraft Mechanician, IVth Class, with effect from 17th March 2012, being the date of passing out from NIAT. They have further prayed for quashing of letter No.TR/8806/8/5 dated 22nd February, 2012 (Annexure A13, hereinafter referred to as 'Annexure A13').

2. In all the aforesaid Original Applications, the sole question with regard to promotion of the applicants to the rank of Aircraft Mechanician, IVth Class, with effect from 17th March, 2012 is involved, therefore, with the consent of the learned counsel for the parties, all the Original Applications were heard together and are being disposed of by this common order.

3. The relevant facts are that the applicants joined the Indian Navy as Metric Entry Recruits. Due to their exceptional performance

during the "DE/NAM Course" and "LAM Q Course", they were earmarked for conversion as Aircraft Mechanician. The applicants showed their willingness also to be converted as Aircraft Mechanician as per the provisions contained in Navy Instruction 2/S/96. Consequently, their terms of engagement was extended from 15 years to 20 years. According to the Rules and Instructions in vogue, the applicants were entitled to be promoted as Aircraft Mechanicians, IVth Class, on completion of the training at NIAT and successful completion of NAMEB before being sent to respective units for their On Job Training (in short, OJT). But the respondents, instead of providing promotion to the applicants, decided to send them for OJT without promotion, which was arbitrary, illegal and violative of principles of natural justice. Prior to the cases of the applicants, the respondents had been granting promotion only on completion of training at NIAT and successful completion of NAMEB. But in the matter of the applicants, the procedure was changed without there being any rationale behind it. It is further alleged that due to the 'Annexure A13,' the respondents denied the promotion to the applicants before start of the OJT.

4. The learned counsel for the applicant submitted that according to paragraph 18 B of the Navy Instruction No.2/S/96, what was required from the applicants was to pass the examination after undergoing the Mechanician Courses at INS SHIVAJI/Naval Air Technical School. The learned counsel then referred to the provisions contained in paragraph 18 C (i) and (ii) of the aforesaid Navy Instruction and contended that the suitability for promotion was required to be examined at the end of the Aircraft Mechanician/Aircraft Mechanician (Weapons) Course by a Board of Officers at Naval Aircraft Maintenance Examination Board on completion of training at NATS.

5. After referring to the above provisions, the learned counsel for the applicant then referred to paragraph 2 and the relevant portion of paragraphs 10 and 12 of the unamended Navy Order 21 of 2007 (Annexure A2), with regard to promotion as IVth Class Mechanician which may be re-produced as follows:

"2. Training pattern and promotion:-- Entry of sailors into the artificer cadre is through the Artificer Apprentice scheme. Direct Entry Diploma Holder (DEDH) Scheme, Navy Entry Artificers (NEA) Scheme and Mechanician Scheme. The Merged Artificer Apprentice Course ensures that irrespective of their type of entry, all artificers of a branch are on the same grid on passing out from

the respective training schools. Hence, the duration of ab initio training differs depending upon the type of entry and the branch. On completion of their initial training, the Artificer Apprentices will be promoted to the rank of Artificer 5th class. NEA entry sailors will be promoted to the rank of Ag.Artificer 4th class while DEDH sailors and Mechanics will be promoted to the rank of Artificer 4th class and Mechanician 4th class respectively. The promotion will be effected only on completion of the ab initio training. The effective date of promotion is to be based on the minimum duration of ab initio training for each entry as promulgated by IHQ of MoD(N) from time to time."

"10. Failure in Last Term Prior OJT/Afloat: The following regulations will be applicable to failures in last term as the sailors proceed for afloat/OJT phase/appointments:--

(a) Trainees who fail to qualify in upto two subjects in the last term are to be retained at the training establishment till they clear the re-examination. The trainees are to be re-examined after giving extra coaching of 01 week per subject. On passing in the re-examination, the trainees are to be conjoined with their original course for the afloat/OJT phase. The loss of seniority is to be in accordance with guidelines enumerated in the table at Para 7 above.

(b) "

"12. Board of Mechanician Sailors:-- The following will be applicable in respect of Mechanician sailors of all branches:--

(a) A Board of Officers of the concerned specialization is to be convened at the respective Training Establishment in accordance with NI 2/96, to assess the sailors on completion of the Mechanician course. The sailors will be promoted to the rank of Mechanician, IVth Class/equivalent on successful completion of the course and qualifying in the Board.

(b)

(c)

(d)"

6. The counsel for the applicants submitted that the aforesaid 'Annexure A13' was without authority and the same could not supersede the Navy Instruction No.2/S/96 and Navy Order No.21/2007. In this view of the matter, the learned counsel contended that Annexure A13 was illegal, void and without authority and as such it was not liable to be acted open.

7. On the basis of the pre 22.02.2012 (Annexure A13) position of the Navy Instruction 2/S/96 and Navy Order 21 of 2007, the learned counsel for the applicants contended that the promotion of the applicants as the Mechanician, IVth Class, ought to have been allowed on completion of initial/ab initio training at NIAT.

8. The respondents have, on the other hand, pleaded that the Navy Instruction 2/S/96 and the Navy Order 21/2007 clearly provide that the applicants had to complete the initial training (ab initio training) at NIAT for 78 weeks and then had to go for the OJT of 18 weeks. The promotion to the Mechanician, IVth Class, could not be granted to the applicants prior to the completion of 18 weeks of OJT. The applicants

were trying to misinterpret the aforesaid Navy Instruction and Navy Order. It was next submitted on behalf of the respondents that 'Annexure A13' was issued by the Integrated Headquarters, which is presided over by the Chief of the Naval Staff and as such the same was issued under the direction and authority of the Chief of the Naval Staff and as such has the binding effect on the parties. The Navy Instruction 2/S/96 empowers the Chief of the Naval Staff to issue Navy Order and suitably modify the Navy Instruction and as such 'Annexure A13' was in the form of modification of the aforesaid Navy Instruction, therefore, the respondents were fully justified in implementing the said letter 'Annexure A13' in the matter of the applicants.

9. In reply, the learned counsel for the applicants submitted that the amended provision as per the 'Annexure A13' could be applied to subsequent courses, but not in respect of the applicants, whose course was about to conclude within the period of next few weeks, therefore, 'Annexure A13' could not be applied with regard to trainings already going on. He next submitted that the postponement of the promotion of the applicants to the later date, being the date of completion of theoretical as well as Practical and consolidation training (OJT) was unjustified.

10. We have given anxious consideration to the rival submissions and perused the record.

11. It was not disputed by the learned counsel for the parties that the Navy Instruction 2/S/96 was issued by the Government of India, Ministry of Defence on April 1, 1996, which, inter alia, conferred power on the Chief of the Naval Staff to cancel or amend any of the provisions contained in portions 'C' and 'D' of the Appendices and the other administrative details contained in the Navy Instructions, at his discretion. He has, however, no power to make any amendment having financial bearing. Paragraph 2 of the aforesaid Navy Instruction being specific on this may be re-produced as follows:

“2. The Chief of the Naval Staff at his discretion may cancel or amend any of the provisions contained in portions 'C' and 'D' of the Appendices and other administrative details contained in the Navy Instruction which have no financial bearing”

12. In our considered view, the change of eligibility policy with regard to promotion cannot be said to have any financial bearing, therefore, the Chief of the Naval Staff could modify the Navy Instruction to the aforesaid extent. In this view of the matter, the contention made on behalf of the

applicants that the letter dated 22nd February, 2012, the 'Annexure A13', was without jurisdiction and was not binding on the applicants has no substance. The said letter was issued after approval, which had been accorded by Integrated Headquarters, Ministry of Defence (N) for promotion of Aviation Mechanician Sailors to Aircraft Mechanician, IVth Class/equivalent rank on successful completion of the theoretical phase at NIAT and OJT at respective Air Squadrons. In view of the fact that the said modified scheme pertaining to promotion was issued with the approval of the Integrated Headquarters, Ministry of Defence (N), it can be inferred that the said modification was done under the direction and authority of the Chief of the Naval Staff, who had power to do so as per paragraph 2 of the Navy Instruction 2/S/96.

13. According to averments made in paragraph 16 of the reply statement, the total training of 96 week of the applicants was to complete on 21st July 2012. According to paragraph 15 of the reply statement, the entire training of 96 weeks includes 78 week initial/ab initio training at NIAT and 18 week On Job Training. It is relevant to mention that the 'Annexure A13' was issued on 22nd February 2012 during the continuance of the initial/ab initio training of the applicants requiring that the promotion as Mechanician, IVth Class, would be considered on completion of the theoretical phase of the training at NIAT and also on completion of OJ Training. In this view of the

matter, the respondents had power to apply the modified scheme on the training programmes already going on and had not concluded. It does not appear to be correct that the modified scheme could be applied only to the subsequent courses. Had the training course of the applicant concluded prior to the issue of 'Annexure A13' they would have been justified in saying that the same was not applicable to them. But the 'Annexure A13' was brought into force prior to the completion of initial/ab initio training of the applicants, therefore, it could be applied even to such training which was already going on.

14. If the Government of India, Ministry of Defence and Chief of the Navy Staff had power to issue necessary instructions for considering the cases of promotion, they had power to modify the scheme even during the continuance of a training and thereby to say that the promotion as Mechanician, IVth Class, would be granted not only on completion of initial/ab initio training, but also after 18 week O.J. Training. If the unamended scheme had stipulated that promotion as Mechanician, IVth Class, would be granted on successful completion of initial/ab initio training, it cannot be inferred that the scheme had conferred a justifiable right of promotion to the applicant only at that stage. The scheme could be amended prior to the completion of the initial/ab initio training so as to provide a new stage at

which the promotion was to be granted. The amended scheme of promotion seems to have been brought into existence so as to assess the suitability of the trainees on completion of the entire theoretical as well as practical training for promotion as Mechanician, IVth Class. Grant of promotion only on completion of initial/ab initio training seems to have been considered as not proper because the promotion at this stage was in the mid of the training and at that stage it was not possible to assess the complete performance of the trainees. The learned counsel for the applicant tried to contend that the seniority of the applicants would be adversely affected due to the scheme, therefore, the modified scheme was detrimental to their interest. But the learned counsel for the applicant could not point out as to how the seniority of the applicants would be affected, especially when the modified scheme is applicable to all the trainees including the applicants and the persons already promoted, who belong to the previous batches, are admittedly senior to the applicants. In this connection the learned counsel for the applicants referred to the cases of other cadres and contended that in other cadres the promotions are granted earlier, therefore, they would become senior to the applicants. In our view, seniority is determined cadre-wise. The modified scheme does not in any way effect the seniority of the applicants in their cadre. No seniority is fixed inter se between two or more cadres. In this

view of the matter, the contention with regard to the seniority has no substance.

15. There appears to be another reason to discard the case set up by the applicants. The On Job Training is a part of the training though imparted at the unit level, but granting promotion prior thereto does not appear to have any reasonable basis, whereas successful completion of entire training including OJT before granting promotion has a reasonable basis to contend that the trainees must successfully complete the entire training including On Job Training before the promotion. As such the claim for promotion in the mid of the training before O.J.T was apparently improper.

16. For the reasons stated above, all the Original Applications lack merits and are accordingly dismissed.

17. There will be no order as to costs.

18. Inform the parties.

19. Let a copy of this order be placed on the file of the connected cases.

Sd/-

LT. GEN. THOMAS MATHEW,
MEMBER (A)

Sd/-

JUSTICE SHRIKANT TRIPATHI,
MEMBER (J)

an.

(true copy)

Prl.Pvt.Secretary