

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. NO.2875/2009

NEW DELHI THIS THE 16TH DAY OF FEBRUARY 2004

HON'BLE SHRI SHANKER RAJU, MEMBER (J)  
HON'BLE SHRI S.A. SINGH, MEMBER (A)

1. Shri Dubey Singh Pal,  
S/o Sh. Har Gyan Singh,  
Melter
2. Sh. Sita Ram S/o Shri Jar Ram  
Welder
3. Vinod Kumar Tyagi, S/o Shri Om Prakash,  
Pattern Maker
4. Ajay Singh S/o Late Sh. Jag Sharan Singh,  
Melter.
5. Rajbir S/o Shri Ram Narayan,  
Welder
6. Sudhershnan Singh S/o Sh. Udit Narayan Singh  
Melter
7. Virender Kr. Kapoor S/o Sh. Madan Gopal Kapoor  
Melter HS-II
8. Bhupender Singh Chouhan S/o Sh. R L Chauhan,  
Melter.
9. Ram Chandra S/o Shri Ram Harsh,  
Melter

(All in Ordnance Factory Muradnagar)

.....Applicants  
(By Shri B S Maini, Advocate)

VERSUS

Union of India through

1. The Secretary,  
Ministry of Defence, New Delhi
2. The Director General,  
Ordnance Factory Board,  
Ministry of Defence,  
16A, S K Bose Road,  
Kolkatta
3. The General Manager,  
Ordnance Factory Muradnagar,

.....Respondents

(By: Shri S M Arif, Advocate)

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BY HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Applicants impugn respondents order dated 6.2.2001, 6.8.2002, 10.10.2002 and 26.9.2002 whereby the respondents decided to withdraw the pay scale of Rs. 210-290/- given to the applicants from between the year 1981 to 1984 and further to place them in the lower scales of Rs. 210-290/- on revised scale and thereafter placed them in the scale of Rs. 260-400/- on completion of 2/3 years requisite service. Quashing of the aforesaid orders has been sought with restoration of the pay scale.

2. Applicants have been appointed as Pattern Makers/Melter/Welders between 16.10.81 to 15.10.84 were placed initially in the scale of Rs. 210-290/- .

3. Vide order dated 17.10.83 in the wake of recommendations by 3rd CPC pay scales of the Category mentioned by way of corrigendum had been placed in the scale of Rs.260 - 400/- this also included the categories to which the applicants belong to.

4. Vide letter dated 13.1.84 it has been decided by the Ordnance Factory Board that revised scale of pay would be effective from 16.10.81

5. The expert Classification Committee recommended the revised pay scales of various trades which had been accepted by the Government vide letter dated 1.2.1984. This order included the categories of the applicants.

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6. An anomaly committee was set up which issued orders for fitment of workers in Ordnance and Ordnance equivalent factories. This also includes the upgradation of semi skilled grade to the skilled grade of Rs. 260-400/-. The aforesaid letter does not include the categories to which the applicants belong to. As 23 trades have been lost sight of in the earlier recommendations accordingly the anomaly committee included them.

7. Government of India, Ministry of Defence vide letter dated 15.3.93 referring to Govt. letter 15.10.84 where 23 additional categories/trades had been included in the wake of decision of apex court in WP 12259-64/1984 in Bagwan Sahai & Others Vs UOI to grant skilled grade to the trades which had figured in Government of India letters dated 15.10.84.

8. Ministry of Defence vide letter 23.9.1993 decided that in so far as the grant of semi skilled grade to skilled grade w.e.f. 16.10.81 instead of 15.10.84 is concerned, this upgradation as to be done only in respect of semi skilled grade of 23 trades as on 16.10.84 those who are included in semi skilled grade after 16.10.84 are not eligible for upgradation.

9. The respondents though granted the benefit w.e.f. 15.10.84 were issued Show Cause Notice in 2001 proposing to withdraw the scale and on replies by the applicant were confirmed, giving raise to the present OA.

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10. The learned counsel for the applicant Shri B S Maini contends that the subsequent letters dated 15.10.84 and 23.10.93 are restricted to those categories which on recommendations of the anomaly committee had been incorporated and their fitment would be effective after 16.10.81 after the service rendered in the lower grade. This according to applicant is applicable to all 23 categories and not to them as the applicants have been granted the benefits without reference to letter 15.10.84 .

11. Shri Maini further contends that the respondents after a long gap of 18 years are estopped from withdrawing the benefits which is not in consonance with the fair play and principles of natural justice.

12. On the other hand Shri S M Arif , learned counsel for the respondents vehemently opposed the contentions and states that if the contention put forward by Shri Maini, learned counsel for applicant is assumed to be correct then applicants have no right to be placed in the skilled grade and as they were appointed in the scale of Rs. 210- 290/- cannot be accorded skilled grade without fulfilling the minimum criteria of minimum service rendered as stipulated in OM dated 15.10.84. In this context it is stated that applicants are also appointed with respondents in the interregnum the 1982 to 1983 and on the crucial date i.e. 16.10.81 they were not in service as such without completion of 2/3 years service as per OM dated

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15.10.84 as subsequent letters of 15.3.93 and 23.9.93 applies to them they had been accorded the benefit by mistake .

13. It is further contended that as the scales given to the applicants according to the letter dated 15.10.84 applies to pay scale of Rs. 210-290/- already existing and what is required with minimum 3 years service in grade and qualifying trade test which would alone entitle them for grant of scale of Rs. 260 - 400/-.

14. In the rejoinder the applicants states that in the counter affidavit filed by the respondents in CP 376/93 in Writ Petition No. 5 of 1993 in the case of Defence Factories Employees Association Vs. Shri K. Dwarkanath & Others filed before the Apex Court had admitted that semi skilled employees of 23 trades inducted after 16.10.81 are not eligible for upgradation from semi-skilled to skilled grade from the date of holding of semi-skilled grade after 16.10.81.

15. We have carefully considered rival contentions of the parties and perused the material on record.

16. On the recommendations of 3rd CPC few trades have been identified for fitment of pay scales which were allowed included the categories of the trades of the applicants. Letter dated 13.1.84 of Ministry of Defence allowed revision of the scale w.e.f. 16.10.81

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17. We also find that expert classification committee whose recommendations had also been accepted w.e.f 1.2.84 allowed the scale of Rs. 260-400 to the categories of the applicants.

18. Letter dated 15.10.84 is applicable to those who had not been brought within the purview of the recommendations and the categories not incorporated therein. Admittedly the category/trade to which the applicants belong to is not mentioned. Further Ministry of Defence letter dated 15.3.93 allows the benefit of scale with effect from 16.10.81 to those semi skilled grade which are mentioned in the OM dated 15.10.84. Accordingly the decision of dated 23.3.93 where the employees inducted for the semi skilled after 16.10.81 are not eligible for upgradation without pre requisite service specified in Ministry of Defence letter dated 15.10.84. In our considered view the categories which had been included in the letter dated 17.10.83 , 13.1.84 and 1.2.84 where the revised scales are allowed to the applicants are independent orders without attracting cut off date or minimum qualifying service. The letter dated 15.10.84 is applicable to these 23 categories only where categories of the applicants are not mentioned.

19. Moreover only the semi skilled employees of 23 trades as figured in Govt. letter dated 15.10.84 require 2/3 years service for upgradation. Respondents action by operating the order dated 15.10.84 and 23.9.93 to the categories not mentioned in



Letter dated 15.10.84 cannot be conuntenanced. Applicants who had been accorded scale on 1.2.84 the aforesaid letters are not applicable to them. As such the very basis of action taken by the respondents is misconceived and cannot be sustained in law.

20. Moreover another aspect of the matter that a mistake has been committed by the respondents while granting skilled grade to the applicants is concerned we do not find any mistake as such which required rectification subsequently after period of 18 years when the applicants had already enjoyed the benefit would amount to unsettling. the settled position and any recovery would be violative of decision of the apex court in Shyam Babu Verma Vs UOI (1990 - 4 Vol. SLJ SC 99).

21. In the result in the foregoing reasons, OA is allowed. Impugned orders are quashed and set aside. Applicants are entitled to all consequential benefits.

  
(S.A. Singh)  
Member (A)

  
(Shanker Raju)  
Member (J)

Patwal/