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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1239/2001

This the 7th day of May, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. Harminder Singh S/O Balwant Singh
2. Shiv Shanker S/O Basudev
3. Sudhir Dobhal S/O Vidyadutt
4. Puran Chand S/O Mam Chand
5. S.B.Rai S/O C.B.Rai
6. N.K.Joshi S/O S.B.Joshi
7. Shyam Sunder S/O Attar Chand
8. J.P.Singh S/O R.L.Singh
9. A.K.Das S/O S.K.Das
10. Ram Dass S/O Ram Pher
11. Sarvajeet Singh S/O Ujagar Singh
12. Din Dayal Dandriyal S/O R.N.Dandriyal
13. S.B.Lamba S/O J.S.Lamba
14. Rati Ram Pal S/O B.S.Pal
15. Gurvachan Singh S/O Charan
16. Manohar Lal S/O A.Narain
17. P.K.Ahuja S/O N.L.Ahuja
18. B.S.Thakur S/O K.S.Thakur
19. O.B.Ali S/O S.B.Ali
20. Pati Ram S/O J.K.Raturi
21. Raj Kumar S/O R.Lal
22. K.S.Wadhwa S/O R.S.Wadhwa
23. M.P.Kapoor S/O R.G.Kapoor
24. D.S.Rawat S/O S.S.Rawat
25. A.S.Thapa S/O Bhagarbir Thapa
26. R.S.Bisht S/O D.S.Bisht
27. Jagdish Prashad S/O Hari Ram
28. Sunil Dutt S/O Pitamber Dutt
29. A.K.Sharma S/O P.C.Sharma
30. N.D.Sharma S/O D.R.Sharma
31. Haminder Kumar S/O D.R.Sastri
32. Darshan Singh S/O D.Singh
33. Gyan Chand S/O D.Chand
34. Sant Ram S/O Ram Dayal
35. Prithivi Lal S/O Raghbir
36. N.R.Pundir S/O Sukh Lal
37. K.C.Joshi S/O T.R.Joshi
38. V.K.Varma S/O S.P.Verma
39. Om Prakash S/O Harish Chand
40. Umesh Kumar S/O Vasu Dev Prasad
41. A.K.Sapalok S/O B.N.Sapalok

(All are working as Fitter (Instrument)
in Ordnance Factory, Dehradun and are
resident of Dehradun c/o C-7/5, O.F.
Estate, Raipur, Dehradun).
... Applicants

(By Shri Yogesh Sharma, Advocate)

~versus~

1. Union of India through
Secretary, Ministry of Defence,
Department of Defence Production,
Govt. of India, New Delhi.
2. Desk Officer,
Ministry of Defence,
Govt. of India,
Dept. of Defence Production & Supplies,
New Delhi.
3. General Manager,
Ordnance Factory,
Dehradun. Respondents

(By Shri V.S.R.Krishna, Advocate)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

Applicants have challenged order dated 5.1.2000 (Annexure A-1) by which their claim for upgradation of their pay scale to Rs.260-400 w.e.f. 16.10.1981 after treating the trade of Fitter (Instrument) as a skilled grade, has been rejected.

2. Earlier on applicants had filed OA No.1569/1994 which was disposed of by order dated 30.7.1999 with the following directions :

"5. We have carefully considered the submissions of both sides. The learned counsel for the applicants has submitted that they are holding the post of Fitter (Instrument) and the trade of Fitter has admittedly been upgraded to the level of skilled and given the higher pay scale. It is seen that the Anomalies Committee did not consider the case of Fitter (Instrument). While there is similarity in the nomenclature it is not clear as to whether the job content and the skill requirement is comparable to that of the general category Fitter. It is well settled that it is not for the Court/Tribunal to evaluate the functions or to go into the equivalence as these are left to the expert bodies. Shri Sharma refers in this connection to the representation dated 13.10.93 (Annexure A-3) filed by the applicants. He says that no reply has been given by the respondents so far to this letter. He says

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that the grounds taken in OA have been clearly stated in the representation. He now submits that respondent No.3 is fully aware of the job done by the applicants vis-a-vis other trade of Fitter and therefore, a direction may be issued to Respondent No.3 to take up the matter with the respondent Nos.1 and 2 and to furnish his comments on the representation at Annexure A-3 and the Respondent No.1 & 2 may dispose of the same. We agree to the request of Shri Sharma. We direct that the Respondent No.3 may furnish his comments on the representation to Respondent No.1 & 2 and the First and Second Respondent shall dispose of the representation by means of a speaking and reasoned order. If the respondents take the view that the Fitter (Instrument) is not comparable to the general Fitter which has been upgraded, they shall bring out reasons in support of their stand. This exercise should be completed within three months from the date of receipt of a copy of this order with intimation to the applicants. If on the basis of the consideration of the representation, the respondents come to the finding that the applicants are similarly situated persons as Fitters, they shall be given whatever benefits are available on that basis.

6. O.A. is disposed of as above, with no order as to costs."

3. Learned counsel of applicants stated that unmindful of the observations of this Tribunal and without considering the recommendations of respondent No.3, respondents have rejected the claim of applicants vide order dated 5.1.2000 (Annexure A-1) which is not a "speaking and reasoned order" and reasons for holding that the Fitter (Instrument) is not comparable to the general Fitter which has been upgraded, have not been brought out in the impugned order. The request of applicants has been rejected vide impugned order on the following grounds :

- "i) The ECC has recommended higher pay scale based on points score basis.
- ii) The Supreme Court of India in Civil Appeal No.3999-4023 of 1988 has held that the pay

scale allotted to each category of employees on the basis of points score given by the ECC as a result of job evaluation cannot be arbitrary.

- iii) The Principal Bench, New Delhi in the case of Sh.R.K.Tyagi & Others Vs. UOI & Others O.A 494/88 has held that it is for the expert bodies to decide the pay scale of Central Government employees and the tribunal cannot substitute itself the role of expert body.
- iv) The applicant is not similarly placed with the persons who have been granted pay scale of Rs.260-400 w.e.f. 16.10.81 on the basis of Government Circular dated 19.3.94.
- v) The anomalies committee had recommended upgradation of semi-skilled grade to skilled grade in 23 grades. The trade of applicant i.e. Fitter (Instrument) was not recommended for upgradation.
- vi) The applicant's trade was recommended for pay scale of Rs.210-290 by the ECC."

4. Learned counsel of applicants drew our attention to Annexure MA-3 dated 24.9.1999 which are recommendations of the General Manager, Indian Ordnance Factory, Dehradun to the Secretary, Ordnance Factory Boards in which the following recommendations were made :

"8. The work of Instrument Fitter in this Factory consists of four known Technologies :
(1) Mechanical Assy. (2) Optical Assy. (3) Electrical Assy. (4) Electronics Assy.

i) Mechanical Trades :

Operation... Drilling, Tapping, Scrapping ...lapping in the accuracy of Microns is carried out including matching of gear axcis.

ii) Optical Assy :

Alignment of Optical and Mechanical axcis removal of Parallas, Diopter Setting, Cleaning (to free the optics from Greassyness and to make it free from the tiny dust particles which is not visible with naked eyes.

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iii) Electrical :

Light setting of Instruments, Providing illuminating devices required in various instruments.

iv) Electronics Assy :

In the latest Technology the Assembly of Image Intensifier tube for Night Vision Instrument, all type of electronic circuits are being assembled by Instrument Fitters engaged for the job."

5. Learned counsel of respondents stated that Government had issued orders dated 5.1.2000 in pursuance of Tribunal's orders dated 30.7.1999 in OA No.1569/1994. Learned counsel of respondents further stated that Fitter (Instrument) trade are classified in the following grades :

- "i) Fitter (Instrument) "C" Grade in the pay scale of Rs.210-290 (now Semi-Skilled).
- ii) Fitter (Instrument) "B" Grade in the pay scale of Rs.260-350 (now Skilled).
- iii) Fitter (Instrument) "A" Grade in the pay scale of Rs.320-400 (now HS Gr.II)."

According to the work specifications and responsibilities they are allotted the above pay scales. On the unanimous recommendations of the anomalies committee, Ministry of Defence vide their letter dated 15.10.1984 had conveyed sanction of Government of India for upgradation of 23 jobs from semi-skilled grades (Rs.210-290) to skilled grades (Rs.260-400). The trade of Fitter (Instrument) general was not found to be suitable for upgradation to the level of skilled grades at par with the other Fitter grades.

6. We have gone through the orders of this Tribunal in OA No.1569/1994 as also Annexure A-1 dated 5.1.2000 issued by respondents in pursuance of the aforesated orders. Despite clear directions of the Tribunal that respondents were to pass a speaking and reasoned order and if they were to take a view, as they have done, that the Fitter (Instrument) is not comparable to the general Fitter which has been upgraded, they had to bring out reasons in support of their stand, respondents have not issued a speaking and reasoned order and they have not brought out reasons in support of the stand that Fitter (Instrument) is not comparable to the general Fitter which has been upgraded. Learned counsel of respondents very fairly conceded and accepted the suggestion that the case could be remanded to respondents with suitable directions.

7. Whereas Annexure A-1 dated 5.1.2000 is quashed and set aside, the case is remanded to respondent No.1 to re-consider the comments of the General Manager, Ordnance Factory, Dehradun on applicants' representation and dispose of the same by means of a reasoned and speaking order. If respondents take the view that Fitter (Instrument) is not comparable to the general Fitter which has been upgraded, detailed reasons in support of their stand shall be stated in the decision. Respondents shall pass relevant orders as directed above within a period of six weeks from the date of receipt of these orders, with intimation to applicants. If respondents find that applicants are similarly situated as general

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Fitter, they shall be given whatever benefits are available on that basis.

8. The OA is disposed of in the above terms. No costs.

S. Raju

(Shanker Raju)
Member (J)

V.K.Majotra

(V.K.Majotra)
Member (A)

/as/