

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, New Delhi.

O.A. No.804/98

New Delhi, this the 15th day of Sept. 2000.
Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mr. S.A.T. Rizvi, Member (A)

1. Hari Ram Shukla, M.E.S. Colony,
P-32/4, Taglakabad, New Delhi -110 062
2. Madan Lal Sharma, E-161/4, C.R. Camp,
Hennagar, Dehradun.
3. Purna Nand, 47/1, Talwar Line, Dehradun.
4. P.D. Bhatt, 171/6, Lower Camp, Lal Gate,
P.O. Ghari, Cantt Dehradun.
5. Bankey Lal, A-3/4, DEAL Colony, Rairur Road, Dehradun.
6. Jaipal Singh, Bk.No.15, MES Qtr. Clement Town, Dehradun.
7. Lalita Prasad, E-157-B, CR Camp, Prem Nagar, Dehradun.
8. Ram Avtar, 56, Vijai Nagar, Adhoywala, Dehradun.
9. Maru Singh, Qr.No. 30/1, MES Colony, AF Station,
Sarasawa, Saharanpur.
10. Shom Chand Sharma, 1/1599, Khaitari Line, Saharanpur.
11. Krishan Lal Sharma, No.11, Bakery Line, MES Colony, Roorkee.
12. Sachida nand, MES Qtrs. Ambala Cantt.
13. Birbal Sharma, MES Qtrs. Ambala Cantt.
14. Moti Lal, H No.382/3, MES Qtr., Near Water Tank No. 2
Double Storey (KE Lines) Ambala Cantt.
15. Meg Raj, 284/4, KE Lines, Ambala Cantt.
16. Brijesh Kumar Mishra, MES Qtrs. Ambala Cantt.
17. Vijay Singh, H.No. 284/1, KE Lines, Ambala Cantt.
18. Dhanna Lal, 14/5, Rajemint Tank, MES colony, Ambala Cantt.
19. Mahabir Singh, H No.118, Type II, MES colony Chandi Mandir Cantt.
20. Yash Pal, H No.186, Type I, KE MES colony, Chandimandir.

(By Advocate: Sh. Sant Lal)

... Applicants

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VERSUS

1. Union of India, through
Secretary, Ministry of Defence,
New Delhi-11.
2. Engineer-in-Chief's Branch
(EIC-3), Kashmir House, DHQPO,
Rajaji Marg, New Delhi-11.

..... Respondents.

(By Advocate: ~~Sh.~~ V.S.R. Krishna through Sh. D.K. Srivastava)

ORDER

Hon'ble Mr. S.A.T. Rizvi, Member (A):

All the applicants in this OA are blind persons and are engaged as Cane Weaver in the Respondents' establishment for more than two decades. Consequent upon the recommendations of the 4th Pay Commission, they have been placed in the pay scale of Rs.800-1150/-. Their grievance is that they have not been considered for upgradation into the skilled grade in the pay scale of Rs.950-1500/-. Hence, this OA.

2. Briefly stated the facts of the case are the following:-

3. The 3rd Pay Commission reduced the number of different pay scales of Industrial workers prevalent in the respondents' establishment from 9 to 5 leaving it to the respondents to carry out the actual fitment of the workers in the newly laid down five different pay scales. The respondents accordingly appointed an Expert Classification Committee (for short ECC) which carried out the job evaluation in respect of the various categories of Defence Workers and the Committee's report got finalised in 1983. Some categories of Industrial Workers were, however, still left out and could not be considered for

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being fitted in to the skilled grade. To resolve the issue, the respondent Ministry appointed a Committee known as "Anomalies Committee" in the following year, namely, 1984, to re-evaluate the job content of the left out categories of workers. This particular Committee recommended about 12 categories at the time in the pay scale of Rs.210-290/- for fitment into the skilled grade of Rs.260-400/-. The respondent Ministry issued necessary orders thereafter on 15.10.84. The applicants' contention is that the aforesaid Anomalies Committee re-evaluated only those jobs in the semi-skilled category in respect of which the requisite details such as job content, skill required etc. were placed before the Committee. The respondents upgraded yet another category, that of Upholsterer to the skilled grade in 1984. Even the Book Repairer/Maker trade which used to be in the semi-skilled category was upgraded into the skilled grade through the Anomalies Committee procedure. It is the applicants' belief, not seriously disputed by the respondents, that theirs is the only category that has been left out and, for that reason, still continue to be classified as semi-skilled. According to the applicants, the claim of the respondents that the applicants' category has been made eligible for promotion to the grade of Upholsterer is illusory in that thus far, for more than a decade, no one belonging to the category of Caneman has been allowed to appear in the trade test for getting promoted to the rank of Upholsterer, a category which till the other day was itself in the semi-skilled category but has since been classified as skilled. The subordinate Units of the respondents' establishment, it is contended, do not permit

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the blind Caneman to undertake the trade test for the job of Upholsterer and this is very much in the knowledge of the respondents. Thus the said promotion channel ostensibly created for the Canmen remains totally choked. In the event, the applicants who have put in more than 3 decades of service, are destined to retire from the same post on which they were initially recruited. The Recruitment Rules applicable to them have also remained unchanged. The respondents' contention is that Caneman have been identified as feeder category for Upholsterer (skilled) and, through this route, the applicants would have the facility to achieve even higher levels, as applicable to industrial cadres, by opting for Carpenter category. However, this contention has already been dealt with above. The applicants' contention that they ought to be considered for being placed in the skilled category on the ground of their higher qualifications (all of them are Matriculates and holding certificates of training from various recognized Institutes), is not acceptable to the respondents, who have stated that those holding III, Ex.Trade Apprentice/N.C.T.V.T. certificates and inducted in semi-skilled categories, alone are eligible for promotion in the skilled category, and since no such higher qualification has been prescribed for Caneman at the stage of induction in accordance with the relevant recruitment rules, their claim for promotion into the skilled category is not justified. The respondents have made a definite claim that the Expert Body of Executives did not find Caneman good enough to fit into the skilled category, and have further pointed out that placing a category in the skilled or the semi-skilled category, can

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2 be done by an Expert Body alone. The respondents have clearly denied that the blindness of the applicant-Canemen has not been an influencing factor in taking a decision in the matter of their upgradation. The respondents have affirmed that the qualification prescribed for Caneman is just 8th Class pass and all those inducted in service on the basis of this qualification, are fitted either in semi-skilled or in un-skilled categories. On this basis also, they do not consider the claim of the applicants as proper and well-founded. They have made a further averment that the category of the applicant- Caneman does not fit into the skilled category due to its nature and job content and taking into account the minimum educational qualification prescribed for their induction. It is also contended by the respondents that a trade certificate is not required for the category of Canemen at the stage of induction. In short, the respondents have refuted the claim of the applicants for three reasons. Firstly, because the qualification prescribed for Canemen is 8th Class without any trade certificate; they cannot be considered for being placed in the skilled category. Secondly, because promotional avenues are already available for them through the route of Upholsterer and they can attain that grade after clearing the prescribed trade test. Thirdly, because the Expert Body has, after consideration, rejected their claim for being placed in the skilled category, they cannot be so placed.

4. We have heard the learned counsel for both the parties and have perused the material on record.

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5. After a careful consideration of the material placed before us, we find that it has not been clearly established by the respondents that the issue of placement of Canemen into the skilled category was really examined by the Committee of experts and that, thereafter, the Anomalies Committee had taken a considered decision in the matter, denying the claim of the applicants. Further, it is, according to us, illogical to contend that the category of Canemen cannot be placed into the skilled category only because the initial recruitment rules prescribed the minimal qualification of 8th class without any trade certificate. As we look at it, Cane-weaving is a job involving skill which has to be acquired and there is considerable scope for improving upon the skill with experience and also otherwise. In this case, all the applicants are stated to possess qualifications much higher than the prescribed qualifications, and as stated above, they are all Matriculates and, in addition, hold certificates issued to them by recognised training institutes. Following the logic of the respondents, the applicants could have a better claim for upgradation, if only a higher qualification than the one already prescribed had been, at any point of time, prescribed by the competent authority. Admittedly, the recruitment rules for Canemen have remained unchanged for close to 3 decades. The educational qualification prescribed, at that point of time, was a mere 8th class pass. Surely, over time, the Govt. and even non-Govt. agencies and Organisations have increasingly felt the need for higher qualifications in all the areas of work and, at the same time, employers have been treating formal skill

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acquisition as a pre-requisite for induction into various types of employment. That being the scenario, it is awkward to argue that when it comes to Canemen, one can make do with the old qualification pattern. In this background, we regret to find that no attempt has been made by the respondents to review the qualifications normally required for Canemen and may be for others in the interest of efficient and improved working. We are also somewhat surprised that the respondents have nowhere refuted the claim of the applicants that their category is the only category amongst a large number of prevalent categories which has not been considered for upgradation. Here, naturally enough and keeping in mind what we have just said, we see some force in the applicants' argument that a lurking bias has remained in evidence all along insofar as their future is concerned. As a matter of fact, the respondents' contention that the applicants cannot be considered for upgradation because of the minimal educational qualification prescribed for them (even if they happen to possess much higher qualifications and training certificates), and the others can be so considered only because they happen to possess higher qualifications (prescribed for them) amounts to blowing hot and cold in the same breath. In the process, we are made to feel that Cane weaving could as well have been placed in the skilled category only if by a stroke of good-luck some one had prescribed a higher qualification for them in the early stages of their career. We have already hinted earlier in the order that such a possibility always existed. However, since this chance happening did not take place, they (Canemen) must be

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allowed to stay where they were decades ago. This is clumsy argument and we refuse to accept such this plea specially since it is taken by a responsible employer like the Ministry of Defence. Our impression is that often the things do not change and huge establishments, like the Defence establishment, remain unaffected by the rapidly changing conditions of work etc. just because those responsible for bringing in the desired changes at the grass-roots level do not place matters for a proper decision before the highest authority in the establishment and persist in sheer cussedness so typical of bureaucratic Organisations. That just a small number of 20 Canemen, all blind, cannot be treated justly can and should be a matter of eternal regret for a civilized society, and more so when we know that the desired small step taken to dispense justice in this case cannot by any stretch of imagination upset the existing pay structures of inter-related categories in any significant manner. The respondents' contention that Canemen have the opportunity to upgrade themselves by becoming Upholsterer through a trade test, fails to convince us as much as it has failed to convince the applicants. This facility for promotion was created more than a decade ago but as claimed by the applicants and not refuted by the respondents, no one among the Caneman has so far had the opportunity to rise up the ladder and become an Upholsterer. This boon conferred on Caneman is thus more illusory than real and cannot amount to creation of a fair opportunity for this class of workers.

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6. The applicants have drawn our attention to the situation obtaining in the Indian Railways. In that big establishment, the Canemen have been put in the skilled grade long back in November, 82. The respondents have refused to take a lesson from this and have instead insisted, according to us illogically, on saying that the job content etc. in their establishment in respect of Canemen is materially different from the Railways and so giving of the skilled grade to them will not be justified. Our attention has also been drawn to a similar situation in which again the Railways had decided to open up two more grades of pay for Staff Car Drivers when all the other Ministries had lagged behind in providing this measure of support to the Drivers. The matter was brought up before this Tribunal and, based on its orders, the DOP&T felt compelled to issue a detailed OM dated 30.11.93, making provisions for the Staff Car Drivers almost through-out the Govt. of India on the lines similar to the Indian Railways. We must give credit for this to the DOP&T and through them to all the Ministries of the Govt. of India for not grudging the grant of identical pay scales to Staff Car Drivers, and more specifically for not advancing arguments on the lines and in the manner done by the respondents in this case. It is indeed a pity that in respect of the activity of Cane weaving with which most of us are familiar, the respondent Ministry should have come out with a totally unacceptable argument that the job content of a Cane Weaver working in their Ministry, is so very different from the job content etc. of a Cane Weaver working in the Indian Railways,

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that the two cannot be compared and cannot be said to be similarly situated.

7. At this stage of our discussion, the principle upheld by the Hon'ble Supreme Court in Randhir Singh Vs. Union of India & Ors. (1982) 1 SCC 618 must be quoted in the following extract to prove for the benefit of the respondent Ministry that it would be meaningless to deny "equal pay for equal work", even if the workers happen to be employed in different Departments/Organisations

"6. The counter-affidavit does not explain how the case of the drivers in the Police Force is different from that of the drivers in other departments and what special factors weighed in fixing a lower scale of pay for them. Apparently in the view of the respondents, the circumstance that persons belong to different departments of the Government is itself a sufficient circumstance to justify different scales of pay irrespective of the identity of their powers, duties and responsibilities. We cannot accept this view. If this view is to be stretched to its logical conclusion, the scales of pay of officers of the same rank in the Government of India may vary from department to department notwithstanding that their powers, duties and responsibilities are identical. We concede that equation of posts and equation of pay are matters primarily for the Executive Government and expert bodies like the Pay Commission and not for courts but we must hasten to say that where all things are equal that is, where all relevant considerations are the same, persons holding identical posts may not be treated differentially in the matter of their pay merely because they belong to different departments.....".

8. Lastly, it also needs to be pointed out that promotional avenues must be created in any Organisation to provide incentive for efficient work and optimal output. This is accepted in today's scenario as a well-established

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principle and has the support of the observations made by the Hon'ble Supreme Court in Raghunath Prasad Singh Vs. Secy., Home (Police) Deptt., Govt. of Bihar, AIR 1988 SC 1033, Council of Scientific & Industrial Research & Anr. Vs. Mr. K.G.S. Bhatt & Anr., 1989 (2) SCALE 395 and in Zia-Ud-Din Vs. Delhi Admn. & Anr., 1 (1990) ATLT (CAT) 445. Brief relevant extracts from the above judgements are reproduced below:-

Raghunath Prasad Singh:

"Reasonable promotional opportunities should be available in every wing of public service. That generates efficiency in service and fosters the appropriate attitude to grow for achieving excellence in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly."

Mr. K.G.S. Bhatt:

".....He was however, left without opportunity for promotion for about twenty years. This is indeed a sad commentary on the appellant's management. It is often said and indeed, abroitly, and organisation public or private does not "hire a hand" but engages or employees a whole man. The persons is recruited by an organisation not just for a job, but for a whole career. One must, therefore, be given an opportunity to advance.....There cannot be any modern management much less any career planning, man-power development, management development etc. which is not related to a system of promotions...."

Zin-Ud-Din:


"3. The Supreme Court has observed that reasonable promotional opportunities should be available in every wing of public service. That generates efficiency in service and fosters appropriate attitude grow for achieving excellence in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly.....In

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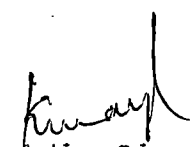
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the instant case, the applicant has stagnated in the same scale of pay for 23 years....."

9. In the background of the very detailed discussion in the above paragraphs and the principles upheld by the Hon"ble Supreme Court and this Tribunal, we fail to see any force in the contentions of the respondents, and are inclined to dispose of the OA with a direction to the respondents to review the matter keeping in view the above observations and provide opportunities to Canemen in their set-up on par with the opportunities available to Canemen in the Indian Railways. They are further directed to ensure compliance within a period of two months from the date of receipt of a copy of this order. There shall no order as to costs.


(S.A.T. Rizvi)
Member (A)

/sunil/


(Kuldip Singh)
Member (J)