

10

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

O.A.No.1369/95

New Delhi: this the 6th day of May, 1997.

HON'BLE MR.S.R.ADIGE, MEMBER(A)

HON'BLE DR.A.VEDAVALLI, MEMBER(J).

1. Shri Bal Ram Singh S/o Late Shri Kharak Bahadur,
R/o Gandhi Nagar, Ballupur,
Dehradun, Painter Indian Military Academy
Dehradun.
2. Shri Mahesh Kumar S/o late Shri Dhani Ram, Painter.
R/o 46/7 Mechanical Line, IMA, Dehradun-
3. Shri Mewa Lal s/o Late Shri Pancham Singh,
Painter, IMA
R/o House No.61, P.O. Hathibarakala,
New Cantt. Road,
Dehradun.
4. Shri Karan Singh s/o Late Shri Jaharu Singh,
Painter, IMA,
R/o Vill. Kohra Santor, Nanda Chowki,
P.O. Prem Nagar,
Dehradun.
5. Shri Ache Lal S/o Shri Late Muni Lal,
Carpenter, IMA.
R/o Training Team, IMA,
Dehradun.
6. Shri Tara Singh, S/o Late Shri Bhagh Singh,
R/O 16/10 Prem Nagar,
Dehradun.
7. Shri Krishan Lal Langodhey S/o Late
Shri Karan Bahadur, - Carpenter IMA
R/O 169/2 New Indian Military Academy
Colony, Dehradun.
8. Shri Deep Kumar S/o Shri Ram Lal,
Carpenter, IMA,
R/O Nai Basti, Chukhuwala,
Indira Colony,
Dehradun.
9. Shri Jagdish Chand,
S/o Shri Sukh Ram,
R/o Khazanchi Mohalla, P.O.Prem Nagar,
Dehradun-Carpenter, IMA, Dehradun

.....Applicants.

(B y Advocate: Shri K.L.Dutt).

2

(71)

Versus

1. The Union of India ,
through
Secretary,
Ministry of Defence,
South Block, DHQ,
New Delhi -11 .
 2. The Vice Chief of Army Staff,
General Staff Branch(MT II)
Army Head Quarter, DHQ,
New Delhi.
 3. The Director of Military Training,
G.S.Branch (MT-7)
Army Head Quarter, DHQ,
New Delhi.
 4. The Commandant,
Indian Military Academy,
Dehradun. Respondents.
- (By Advocate; Shri M.K.Gupta).

JUDGMENT

HON'BLE MR.S.R.ADIGE, MEMBER(A).

Applicants who are Painters/ Carpenters in Indian Military Academy, (IMA) Dehradun seek a direction to respondents to extend the benefit of upgradation of their pay scale from Rs.225-308/- to Rs.260-400 (Third Central Pay Commission) w.e.f. 18.10.81 and revised pay scale of Rs.950-1500 (Fourth Central Pay Commission) with consequential benefits together with interest @ 15% per annum on arrears.

2. Their case is that the 3rd CPC recommended a pay scale of Rs.225-308/- to Common Category Workers such as Carpenters, Painters etc. employed in IMA Dehradun whereas a higher pay scale of Rs.260-350 was recommended for Common Category Workers in Ordnance Factories and other Directorates of Defence Ministry. Being aggrieved, applicants state that they filed a representation, but no action was taken thereon. They state that the question of removal of such anomalies

was raised in JOM which decided to set up a Committee to study and evaluate the job content of various trades to remove anomalies. The said Committee applying the method of job evaluation by the point rating method recommended upgradation of semi-skilled pay scale of Rs.210-290 to Rs.260-400, and they contend that their trades of painter/ Carpenter was also classified in the Common Category by the Committee for which upgradation to Rs.260-400 was recommended vide respondents' letter No.3822 dated 15.10.84 (Annexure-A1), but despite that applicants have been denied the skilled grade of Rs.260-400 without reason. They contend that when they represented against non-extension of the scale of Rs.260-400 to them, they were informed that the said letter dated 15.10.84 is not applicable to applicants who are working in G.S.Branch. Meanwhile they contend that as a result of 4th Pay Commission recommendations, applicants have been placed in revised scale of Rs.825-1200, while the scale of those drawing Rs.260-400 has been revised to Rs.950-1500.

3. Respondents in their reply state that applicants are non-industrial workers, as is clear from their R. Rs(Annexure-1) and are working in G.S.(General Staff) Branch of Army H.Q. They contend that their letter No.3822 dated 15.10.84 is not applicable to applicants as it relates to fitment of non-Industrial workers serving under Adjutant General (AG) Branch and not GS Branch and similarly their letter No.3808 dated 15.10.84 (Annexure-R11) relates to fitment of Industrial workers working in AG Branch and is therefore applicable only to industrial workers. It is contended that the Anomalies Committee found the job of Painters and Carpenters working in G.S. Branch to be of routine nature in which no skill

2

was required and as such they were not placed in skilled category. It is also stated that all Carpenters/ Painters serving in other establishments/ organisations under G.S. Branch of Army H.Q. such as NDA, OTA etc. are getting the same pay scales as applicants in IMA. They also state that as applicants are non-industrial workers, and their service conditions, nature of duties, quality of work, responsibility etc. cannot be compared with Industrial Workers. Respondents state that applicants were informed accordingly vide letter dated 16.12.91.

4. In this connection, we note respondents' averment that the grievance of applicants was discussed in JOM, where disagreement was recorded upon which applicants filed OA No.2457/93 in which respondents stated in their counter affidavit that the matter had been referred to A.G's Branch for reconsideration of their decision and extension of the higher pay scales to skilled workers in the category of which painters/ carpenters fell and that a final decision was still awaited. Accordingly ^{on 17.1.94} that OA was disposed of with a direction to respondents to dispose of applicant's representation within 3 months under intimation to them, with liberty given to them that if any grievance still survived thereafter, it was open to them to seek such redress as may be advised. Respondents state further that thereupon the matter was again taken up with Army H.Q. vide letter dated 23.5.94, in reply to which it was clarified that no proposal for grant of skilled grade to employee in G.S. Branch was presently pending with Defence Ministry/ Army H.Q. and applicants were informed accordingly, who being aggrieved filed an MA in 1994,

an MA in 1994, upon which the Tribunal on 25.10.94 dismissed the MA observing that if applicants were aggrieved by the order dated 17.1.94, it was open to them to file a separate O.A., but he could not have the earlier O.A. re-opened by filing an M.A.

5. Respondents state that it is in the above background the applicants have filed the present O.A. afresh in C.A.T. with the same contention that they have been deprived of the benefits extended to all other common category skilled workers in other Defence establishments.

6. Respondents further state that applicants' grievances have since been referred to the V Pay Commission through Army Headquarters vide letter dated 17.8.94 (Annexure R-XI) and it is for an expert body like the Pay Commission to decide on the issue of pay scales.

7. We have heard Shri Dutt for the applicants and Shri M.K. Gupta for the Respondents. We have perused the materials on record and given the matter our careful consideration.

8. In State of U.P. Vs. J.P. Chaurasia AIR 1989 SC 19 the Hon'ble Supreme Court has

h

held as follows:

18

"It is for the administration to decide the question whether two posts which very often may appear to be the same or similar should carry equal pay, the answer to which depends upon several factors, namely, evaluation of duties and responsibilities of the respective posts and its determination should be left to expert bodies like the Pay Commission. The court should normally accept the recommendations of Pay Commission."

9. Now ^{that} the V Pay Commission has given its recommendations, and the Central Govt. is seized of the matter, we hold that the Central Government's decision should be awaited. It ^{has} ~~is~~ no doubt been argued that the Pay Commission's recommendations are prospective in nature, while applicants are seeking pay parity from retrospective effect, but even so we hold that if we record any finding on the merit of the applicants' case at this stage, we would in effect be pre-empting the Central Govt.'s decision on the V Pay Commission's recommendations, ^{which} ~~is~~ would be inappropriate on our part. In this connection the following extracts from the Hon'ble Supreme Court's judgment dated 12.3.97 in Civil Appeal No. 7127/93 U.O.I. & Ors. Vs. P.V. Hariharan & anr. are extremely relevant.

A

(16)

" Before parting with this appeal, we feel impelled to make a few observations. Over the past few weeks, we have come across several matters decided by Administrative Tribunals on the question of pay scales. We have noticed that quite often the Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Govt. which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated, as well as those situated above and below, put forward their claims on the basis of such change. The Tribunal should realise that interfering with the prescribed pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issued. Very often, the doctrine of "equal pay for equal work" is also being mis-understood and mis-applied, freely revising and enhancing the pay scales across the board. We hope and trust that the Tribunals will exercise due restrain in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales."

10. In the background of the above ruling, and the fact that the recommendations of the V Pay Commission have since been submitted to the Central Govt. without touching upon the merits of the applicants' claims, lest it prejudice their case at a time when the Central Govt. is to take a decision on the recommendations of the V Pay

N

(17)

Commission we dispose of this O.A. sanguine that the Central Govt. will give due thought to the applicants' claims while considering the V Pay Commission's recommendations, and take an appropriate decision in this regard with all expedition.

11. The O.A. stands disposed of accordingly in terms of para 10 above. No costs.

A. Vedavalli

(DR. A. VEDAVALLI)
Member (J)

/GK/

S.R. Adige

(S.R. ADIGE)
Member (A)