

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

RETRIBUTIVE BENCH : NEW DELHI

OA No. 2242/2000 Date of decision: 7.02.2002

Gan Raj Ganidhewar & Another .. Applicants

(By Advocate: Shri S.S. Tiwari)

versus

Union of India & Ors. Respondents

(By Advocate: Shri D.S. Mehandru)

CORAM:

The Hon'ble Shri M.P. Singh, Member (A)

The Hon'ble Shri Shanker Raju, Member(J)

1. To be referred to the reporter or not? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal?

(M.P. Singh)
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2242/2000

New Delhi, this 7th day of February, 2002

Hon'ble Shri M.P.Singh, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

1. Gan Raj Gandhewar
M-4, Prithviraj Lane
Khan Market, New Delhi
2. Balam Singh Bhandari
P-134, Sector 4, Pushp Vihar
New Delhi

.. Applicants

(By Shri S.S.Tiwari, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Defence
South Block, New Delhi
2. Commanding Officer
Army Hqrs. Camp, Rao Tula Ram Marg
New Delhi
3. Quarter Master General
Army Hqrs. Camp, Rao Tula Ram Marg
New Delhi

.. Respondents

(By Shri D.S. Mehandru, Advocate)

ORDER

By Shri M.P. Singh, Member(A)

Applicant No.1 was appointed as Tailor in the pay scale of Rs.210-290 (pre-revised) on 1.7.1981, while applicant No.2 was appointed to the said post in 1972. Subsequently, pay of applicant No.1 was refixed w.e.f. 15.10.84 in terms of order dated 19.9.1986 issued by R-2 wherein the scale of Tailor was revised to Rs.260-400 from Rs.210-290. This was revised to Rs.950-1500 as per the recommendation of 4th Pay Commission. Thereafter, the pay of the applicants was again refixed in the scale of Rs.3050-4590 as per the recommendation of 5th Pay Commission vide order dated 29.3.99. Suddenly, the pay of the applicants has been refixed in the pay scale of Rs.2650-4000 without any show cause notice having been

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given to them. According to the applicants, Tailors in various other departments/units of the Ministry of Defence are getting the pay scale of Rs.3050-4590 but in the case of applicants, it has been reduced without even a show cause notice w.e.f. 1984. Aggrieved by this, applicants have filed this OA praying for directions to the respondents to refix their pay in the revised scale of Rs.3050-4590 as was done in April, 1999 with interest @ 18% and not to make any recovery from the applicants on account of alleged excess payment.

2. Respondents in their reply have stated that pay of the applicant No.1 was erroneously fixed w.e.f. 15.10.84 in the pay scale of Rs.260-400 and this scale is not applicable to the category of Tailors in terms of Ministry of Defence letter dated 15.10.84 (R/1). He continued to get the wrong pay due to inadvertence till the same was objected to by the audit authorities of the Area Accounts Office, Delhi Cantt. vide their letter dated 24.3.99 (R/2). Accordingly the Army Hqrs. Camp was directed to regulate the pay fixation of the applicants. Thereafter, their pay was refixed in the entitled pay scale of Rs.2650-4000. Applicants had the knowledge of refixation of their pay as per Annexure B annexed to the OA and they accepted the reduced pay since June, 1999. In the present case, applicants had the notice of reduction in their pay as the copy of letter dated 24.3.99 was given to them and thereafter notice dated 9.11.2000 (R/3) for the recovery of excess amount has been duly served upon them. They made representation dated 3.10.2000 thereby requesting to recover the excess amount of Rs.18,047 in 18 equal

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monthly instalments. In view of the aforesaid submission, the present OA is without any merit and be dismissed.

3. Heard the learned counsel for the rival contesting parties and perused the records.

4. During the course of the arguments, learned counsel for the applicants drew our attention to the judgement of the coordinate Bench of this Tribunal dated 11.9.2001 in OA No.785/2001 and submitted that this OA filed by similarly placed persons was allowed and the impugned order dated 14.11.2000 therein was quashed restoring the earlier order dated 16.1.98 that too with consequential benefits. He further submitted that the Hon'ble Chairman was aware of the Full Bench judgement dated 20.6.2001 in OA 735/99 and other connected OAs decided by the Mumbai Bench of the Tribunal wherein similar benefit was disallowed.

5. On the other hand, learned counsel for the respondents submitted that the present OA is covered by the Full Bench judgement of Mumbai Bench (supra) wherein the Tribunal has held as under:

"Pay scale - Downgradation - Ministry of Defence upgraded the jobs of semi-skilled grade (210-290) to the skilled grade (Rs.260-400) on the recommendation of Anomalies Committee/Third Pay Commission - Semi skilled Tailor Trade was also upgraded by various Units on seeking clarification from Army Hqrs. - Ministry of Defence never upgraded the semi skilled Tailors trade - by impugned order respondents corrected the mistake and downgraded the applicants who are in Tailors Trade and also ordered recovery of difference of pay and allowances paid to them - Held no infirmity in the order of downgrading the Tailor Trade which was upgraded by mistake - However order of recovery

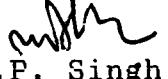
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of the excess payments made on the basis of placing the applicants erroneously in a higher pay scale will not be enforced"

6. On perusal of records, we find that the present case is covered by the Full Bench judgement (supra). Although the judgement dated 11.9.2001 in OA No.785/2001 was a later one, it appears that the decision of the Full Bench (supra) was not brought to the knowledge of the coordinate Bench of this Tribunal and therefore it was not discussed therein. We are bound by the decision of the Full Bench (supra). In the circumstances, having regard to the ratio arrived at by the Full Bench, we hold that the action of the respondents clearly corrects the mistake made and is, therefore, valid and does not suffer from any infirmity. In the circumstances, present OA is dismissed accordingly. However, as regards the decision of the respondents in so far as it seeks to make recoveries of the excess payments made on the basis of placing the applicants erroneously in a higher pay scale, the same will not be enforced.

7. There shall be no order as to costs.

S. Raju
 (Shanker Raju)
 Member(J)


 (M.P. Singh)
 Member(A)

/gtv/