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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.494/88

Date of decision: 20.8.1993

Shri R.K. Tyagi & Ors.

...Petitioners

Versus

Union of India through the

Ministry of Defence, South

Block, New Delhi & Others

...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A)

The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioner

Shri A.K. Goel, Counsel.

For the respondents

Mrs. Raj Kumari Chopra,
Counsel.

1. Whether Reporters of local papers may be allowed to
see the Judgement? *No*
2. To be referred to the Reporter or not? *Yes*

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A)

(4) (8)

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(Judgement of the Bench delivered by Hon'ble
Mr. I.K. Rasgotra, Member (A))

We had heard this case on 4.8.1993 when the order was reserved. On 5.8.1993, Mrs. Raj Kumari Chopra, Counsel appeared for the respondents and submitted that she would like to file a few judgements in support of the case of the respondents which she was allowed to do.

2. S/Shri R.K. Tyagi, Girish Kumar, S.K. Mehta, J.C. Tiwari, P.K. Sharma, S.K. Patil and R.K. Arora petitioners herein are working in the grade of highly skilled grade-II in the respective trades such as Fitter, Millwright Fitter, Auto Fitter, Moulder and are posted in the Ordnance Factory, Muradnagar. There are following scales of pay (pre-revised) for the workshop staff:-

Highly Skilled Grade-I Rs.380-560

Highly Skilled Grade-II Rs.330-480

Skilled Rs.260-400

Semi Skilled Rs.210-290

Unskilled Rs.196-232.

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Their grievance is that the respondents on the basis of the recommendations of an Expert Classification Committee (ECC for short) gave higher pay scale of HS-I i.e. Rs.380-560 (pre-revised) to certain employees in the trades of jig borers and tool makers who were earlier working in the highly skilled grade-II alongwith them. This has been done inspite of the fact that all these categories had the same training and apprenticeship as the petitioners. They also contend that the work performed by them is of equal level and all these categories had the same grade and scale. They admit that the ECC had recommended pay scale for workshop categories as per the job evaluation but contend that the scales of pay granted to jig borers and tool makers are not as per the recommendations of the ECC, as the ECC had recommended nine scales of pay but the Government accepted only 5 scales of pay. The award of higher scale to these trades is, therefore, tantamount to discrimination. They contend that the trade of jig borers and tool makers is the same as other trades such as fitters, millwrights, Auto Fitters, Moulders, Tool Setters and, therefore, grant of higher pay scale to only some of the trades was arbitrary and irrational. They further maintain that the job specification also shows that the jobs of these trades are identical. This contention is based on the syllabus for training relating to each trade. They, however, admit that there is difference in training inasmuch as the theory paper is separate for each trade. The petitioners made representation against the discrimination, but did not receive any reply. They have prayed that the Tribunal may issue writ order or direction to the respondents to redesignate the applicants to the grade of HS-I with retrospective effect so as to protect their seniority vis-a-vis the



millwrights as also to grant them equal treatment with jig borers and secondly to grant them consequential benefits.

3. The stand of the respondents is that they have filed this petition against the order dated 26.2.87 on 22.3.1988 and the petition is, therefore, barred under Section 21 of the Administrative Tribunals Act, 1985. On merits they submit that an ECC was appointed to evaluate the job contents of various trades and to recommend fitment of the trades in different pay scales. The ECC has not recommended higher scale of Rs.380-560 (pre-revised) for the trades of fitter general, tool makers, mill wrights fitters, auto fitters, moulders, H.S. Grade-II. They submit that the petitioners statement that the H.S. Grade-II in trade of tool maker is revised is not correct. They admit that the scale of jig borers alone has been revised from Rs.330-480 to Rs.380-560. They also refute the contention of the petitioners that job specification of all the trades such as jig borers, tool makers etc. are identical. If the job specification of all the trades was the same there would be no need to conduct separate training for the various trades.

4. The petitioners have filed a rejoinder, reiterating their stand in the O.A.

5. The learned counsel for the respondents, Mrs. Raj Kumari Chopra has filed the following judgements in support of the case of the respondents:-

- i) OA Nos.677 to 701 of 1986 decided on 24.7.1987 between K.K. Aravindakshan and 24 Ors. vs. Union of India through its Secretary, Ministry of Defence and Ors.
- ii) OA-1741/87 Sh. Devendra Kumar Srivastava & Ors. v. Union of India & Anr.

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While the decision in K.K. Aravindakshan (supra) is relevant in the case before us, the decision in Sh. Devendra Kumar Srivastava (supra) is not germane to the issues before us. The following judgements of Supreme Court have also been filed:-

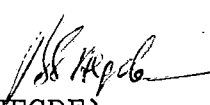
- i) Writ Petition (C) Nos.915/91,855/91,521/92, 649/92 & 644/92 R.S. Gill & Ors., etc. etc. vs. Union of India & Ors. etc.
- ii) Bhagwan Sahai Carpenter and Ors. vs. Union of India and another- AIR 1989 SC 1215.

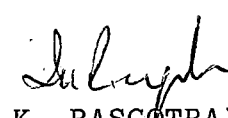
These judgements are distinguishable from the issues of law and fact before us.

6. We have heard the learned counsel for the petitioner and carefully considered the counter-affidavit filed by the respondents. We have also perused the judgement filed by Mrs. Raj Kumari Chopra, learned counsel in support of the case of the respondents. The fitment of different trades in the five accepted scales of pay has been done by the respondents on the basis of the report of the ECC. The committee had adopted the system of point rating for the purpose of job evaluation of each trade. On the basis of the point score of each trade they recommend fitment of the trade in the different scales of pay. The Tribunal cannot substitute itself for the ECC constituted in accordance with the recommendations of the Third Pay Commission by the respondents. For the purpose of 'equal pay for equal work' also it is the responsibilities and duties of each trade which are crucial. These duties and responsibilities have to be assessed by expert bodies by the ECC who have the necessary expertise. It is not for the Tribunal to decide the fitment in the scales of pay without having any scientific data and expertise in regard to assess the job contents of various trades. The contention that some of the trades which are now in the higher scale of pay were also in the lower scale of pay

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in which the petitioners are working at one time cannot be the basis for determining the fitment in the higher scale of pay. We are living in a dynamic age where the technology is changing. The trades and their job contents cannot remain stationary for all time to come. Since then the pay scales have further undergone revision on the basis of the recommendations of the Fourth Central Pay Commission. If the petitioners had any case it was for them to agitate the matter by way of filing reply to the questionnaire or through other modes before the Fourth Central Pay Commission seeking redressal of their grievance. Since none of the Expert Bodies have recommended the revision of pay scales in their case we are not able to find any justification for our interference in the matter. The O.A. is accordingly dismissed, as devoid of merit. No costs.


(B.S. HEGDE)
MEMBER(J)


(I.K. RASGOTRA)
MEMBER(A)

20/5/93

San.