

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.No. 648/90

New Delhi, this the 20th day of July 1995

Hon'ble Shri B.K.Singh, Member(A)

Hon'ble Shri J.P.Sharma, Member(J)

Brij Kishore Tyagi
S/o Shri Sohan Lal Tyagi
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Bhav Nath,
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S/o Shri Haveli Ram,
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Kishan Lal,
S/o Sh. Dhanpat Rai,
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Bhagwan Dass,
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Mani Ram,
S/o Sh. Her Sahai,
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P.O. B.B.Ashram,
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Rattan Chand,
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(By Advocate Shri Jog Singh)

Versus

1. The Secretary,
Ministry of Defence(CIV-II)
Sena Bhavan,
New Delhi 110 001

2. Commandant,
Central Vehicle Depot,
Delhi Cantt.

.....Applicants

3. Director General of
Ordnance Service,
Army Headquarters,
South Block,
New Delhi 110-011

(By Advocate Shri M.K. Gupta)

.....Respondents

O R D E R

Hon'ble Shri B.K.Singh Member(A)

This OA No. 648/90 has been filed against revision of pay scales of Electricians(AFV) of Army Ordnance Corp from Rs. 380-560 to Rs. 330-480 with effect from the 16 October 1981 on the basis of the recommendations of the Expert Classification Committee constituted by the Government in the light of the recommendations of the 3rd Pay Commission and on the basis of the demand of the highly skilled Defence Workers Association (India) for their job evaluation and fixation of their pay.

2. The recommendations of the Expert Classification Committee were issued by the Ministry of Defence vide their letter No.1(2)80/D (ECC/IC) dated 11-5-1983. A copy of this letter is enclosed with OA and marked as Annexure-III.

3. The applicants filed a representation to the concerned officials and finally to the Defence Minister which is Annexure A-IV dated 21-6-1988.

4. Aggrieved by the negative response of the Ministry the applicants filed this OA on 15-3-1990 for redressal of their grievances.

5. We heard learned counsel Shri Jog Singh for the applicants and Shri M.K. Gupta for the respondents and peruse the record of the case.

6. In the OA and also during the course of his arguments the learned counsel for the applicants argued about the arduousness of the job performed by the Electricians(AFV) of the Army Ordnance Corp. He highlighted the duties and

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responsibilities attached with the post and these duties and responsibilities have also been indicated by the learned counsel in the OA at page 6-9 which gives the detailed chart of the duties performed by the Electrician(AFV) of the Army Ordnance Corp. According to him the job content and quality of work put in by the Electrician(AFV) is more onerous and arduous than those of the similarly placed Electricians working in other Wings of the Armed Forces and he sought parity with them on grounds of equal pay for equal work. He further argued that previously there were inter departmental transfers of Electricians(AFV) in the EME and also in AOC Corp but after the new classification brought out by the Expert Classification Committee the inter-departmental transfers have stopped. He alleged hostile discrimination in respect of the applicants vis-a-vis their counter parts working in other wings of the Army and that this attracts Articles 14 and 16 of the Constitution read with Articles 37, 38 and 39 etc.

7. It was further argued that an anomalous situation has cropped up where the employees in the feeder cadre i.e. Electricians(MV) are getting more pay than these promoted employees i.e. the Electricians(AFV). Thus there is discrimination not only between the Electricians(AFV) and their counter parts but there is discrimination with regard to the Electricians(MV) which is a feeder cadre. It was further argued that qualification prescribed for direct recruitment of Electricians (AFV) are higher than those of Electricians(MV) and taking into consideration the job content and qualifications Electricians(AFV) are entitled to higher pay scale than Electricians(MV) or at least equal pay for equal work in conformity with the pay scales given to the counter parts in other wings of the Army.

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8. The learned counsel for the respondents raised the question of limitation and stated that this is a belated application since the cause of action arose to the applicants in May 1983 and this application was filed in 1990. He relied on the rulings of the Hon'ble Supreme Court in case of State of Punjab Vs. Gurdev Singh (1991) 4 SCC page-1 and S.S. Rathore Vs. State of Madhya Pradesh AIR 1990 page-10 and also on the latest Judgement of the Hon'ble Supreme Court in case of Union of India Vs. Ratam Chandra Samanta Judgement Today 1993(3) SCC page-418. The Supreme Court have clearly said that the Tribunal is bound by the statutory time limit given in Section 20 & 21 i.e. if a cause of action arose on a particular date and a representation has been filed the period of limitation runs from the date of cause of action and a representation can add six months more to the period of one year i.e. the limitation period prescribed is one and half years only. It has been laid down that after the expiry of the statutory period the relief prayed for can not be granted and further that after the lapse of the statutory period remedy is lost and if the remedy is lost the right also is lost. This being so there is no doubt that this is a belated application and is liable to be dismissed on that account alone.

9. On merits also it may be pointed out that on the basis of the recommendation of the 3rd Pay Commission the Defence Ministry constituted an Expert Classification Committee and the Expert Classification Committee on the basis of the demand of these highly skilled workers went into depth on these demands and they suggested a classification which after due deliberation was accepted by the Ministry of Defence.

10. As regards the contention of discrimination Justice Madam of the Hon'ble Supreme Court in case of Subodh Verma Vs. State of UP (1984) SCC 251 (para-40) has stated that Article-14 does not forbid classification.

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The principles underlying the guarantee of Article-14 is not that the same rule of Law should be applicable to all persons within the territory of India irrespective of differences of circumstances. It only means that all those similarly circumstanced should be treated alike and that there should be no discrimination between one person and another. The state has the power to determine who should be regrouped as a class for the purposes of classification.

The classification to be valid, must not be arbitrary or unreasonable.

There must be a reasonable nexus or relation to the object of the legislation.

11. The Hon'ble Supreme Court have not viewed with favour the action of the Tribunal or the High Courts tinkering with the recommendations of the expert bodies. In the case of State of UP Vs. J.P. Chouhary AIR ¹⁹⁸⁹ 1985 SC 19 and recently in case of Shyam Babu Verma and Others Vs. UOI and Ors JT 1994 (1) SCC 574, it was held that the nature of work may be more or less the same but the scale of pay may vary based on academic qualification or experience which justifies classification. The principle of equal pay for equal work should not be applied in a Mechanical way throwing to winds the classification made by a body of experts. After a full study and analysis of work content, quality of work the report is made by an expert body and it should not be disturbed except for very strong reasons which go to prove that classification made is unreasonable. Before any direction is issued by the Court the claimants have to establish that there has been no reasonable basis to treat them separately in matter of payment of wages or salary. Only then it can be held that there has been a discrimination within the meaning of Article-14 of the Constitution. It was a case of Pharmasist Grade-II in which two scales had been prescribed and when it was challenged as arbitrary the Hon'ble Supreme Court dismissed the petition because no arbitrariness in the classification could be shown by the petitioners. The same

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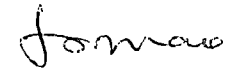
view was held in the case of State of Madhya Pradesh Vs. Parmod Bhartiya (1993) SCC-539 by Full Bench of the Hon'ble Supreme Court. In all these cases the Hon'ble Supreme Court have held that unless very strong reasons are put-forth High Court and Tribunal should not interfere with the classification made by the expert body.

12. It is admitted by both the parties that the present classification has been made by the Expert Classification Committee set up by the Defence Ministry on the basis of the recommendation of the 3rd Pay Commission and the new classification involving the new pay scales has been made by that body and accepted by the respondents.

13. Apart from delay and laches we are not inclined to interfere with the classification made by the Expert Classification Committee. The OA fails and is dismissed leaving the parties where their own costs.

14. However while parting we would like the applicants / recognised and their/Association to submit a memorandum through the Ministry of Defence who could forward the same to the 5th Pay Commission for looking into their demands since the terms and reference of the 5th Pay Commission indicates that these employees are covered under those terms.


(B.K. SINGH)
Member(A)


(J.P. SHARMA)
Member(J)

cc.