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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

...

OA No. 1688/93

New Delhi, this the 17<sup>th</sup> day of March, 1999

HON'BLE SHRI T.N. BHAT, MEMBER (J)  
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

1. B.N. Shukla s/o Shri S.D. Sukhla,
2. Hari Om Gaur s/o Shri N.R. Gaur,
3. Madan Jivan s/o Sh. Chandra Dwivedi,  
all are working as Senior A/C Mechanic  
in B.S.F. (Air Wing) R/o Gaur Sadan,  
Gali No. 40, Sadh Nagar, Palam Colony,  
New Delhi. .... Applicants

(By Advocate: Shri V.P. Sharma)

Versus

Union of India through

1. The Secretary,  
Ministry of Home Affairs,  
Govt. of India,  
New Delhi.
2. The Director General,  
Border Security Force,  
CGO Complex,  
Lodhi Road, New Delhi.
3. The Chief Engineer,  
Border Security Force (Air Wing)  
Safdarjang Airport,  
New Delhi. ... Respondents

(By Advocate: None)

O R D E R

delivered by Hon'ble Shri T.N. Bhat, Member (J)

The applicants working as Senior Aircraft Mechanics under the respondents in the Border Security Force are aggrieved by the action of the respondents in not granting to them the higher pay scale of Rs. 2000-3200/- on the erroneous assumption that the aforesaid higher pay scale is applicable only to combatised employees. It is contended by the applicants

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that there cannot be any discrimination between the combatised and the non-combatised employees and according to the recommendation for granting higher pay scale the pay scale was to be given irrespective of the fact that as to whether the senior Aircraft Mechanics were combatised or not.

2. We have heard the learned counsel for the applicants at length and have also perused the material on record. None appeared for the respondents on several dates of hearing. The matter being an old one, having been filed in the year 1993, we considered it appropriate to dispose of the matter on the basis of the material available on record. We may also state that the respondents have failed to make available the relevant files despite directions given by the Tribunal on 2.4.1998. However, the learned counsel for the applicants has made available copies of some of the documents.

3. It is not disputed that the applicants are non-combatised and are working as civilian employees in the B.S.F.. There were five such posts of Senior Aircraft Mechanic and later 21 more posts were added making a total of 26 posts. It is also not disputed that according to the orders issued by the competent authority after obtaining the sanction from the Govt. the Senior Aircraft Mechanics were granted the higher pay scale of Rs. 2000-3200/-. However, by use of strange logic a subordinate officer of the respondents considered the civilian employees like the applicants ineligible for



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being placed in the higher pay scale. It was declared (nay, 'ordained') by him that the higher pay scale would apply only to the combatised section of Senior Aircraft Mechanics. We have tried our best to find any material which would support the aforesaid contention, but all in vain. On the contrary we find sufficient evidence from the departmental notings of the respondents themselves that the higher pay scale was meant to apply to all the sections including the non-combatised one. We may in this regard refer to a note dated 15.4.1997 on the note-sheet relating to a request made by one Shri Mohan Lal Sharma, Senior Aircraft Mechanic for grant of higher pay scale to him. In this note it has clearly been stated that the said Mohan Lal Sharma was entitled to the higher pay scale of Rs. 2000-3200/-. It further appears that even the Accounts Officer had been preparing bills wherein the pay scale of senior mechanics was shown to be Rs. 2000-3200/-. Not an iota of evidence is forthcoming from the respondents on the basis of which the action denying to the applicants the higher pay scale of Rs. 2000-3200/- could be justified.

4. It is now well settled that there can be no discrimination between one set of employees and another so far as the pay scales are concerned if both the sets perform the same functions and duties. The Hon'ble Supreme Court in its judgement dated 22.2.1982 in Randhir Singh vs. Union of India & Ors., reported in 1982 (1) SLR 756, laid down this law. Dealing with the question of drivers working in Delhi Police Force and comparing their duties and functions with other drivers in service of the Delhi Administration and the Central

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Government the Apex Court held that driver-constables of the Delhi Police Force perform no less arduous duties than drivers in other departments and, therefore, they cannot be discriminated in terms of pay scales. In the instant case Senior Aircraft Mechanics in the combatised section perform the same duties and have the same responsibilities as those who belong to the non-combatised section. There can, therefore, be no discrimination between the two. That apart, since the competent higher authority in the Govt. had granted sanction for placing all the Senior Aircraft Mechanics in the higher pay scales this decision of the Govt. was binding upon the respondents and it was not open to a subordinate officer like the Deputy Chief Engineer, Air Wing of B.S.F. to issue the order dated 15.6.1992 in which he has held that the posts existing earlier to the creation of the new posts being in the non-combatised section the higher pay scale would not apply to them.

5. In view of what has been held and discussed above, we find much force in the contentions of the applicants raised in this O.A. The O.A. is accordingly allowed with costs and the respondents are directed to pay to the applicants salary in the pay scale of Rs. 2000-3200/- from the date salary in the same pay scale was paid to the combatised section of Senior Aircraft Mechanics. The costs are assessed at Rs. 1000/- which shall be paid by the respondents. But it shall be open to the respondents to fix the responsibility for taking such a wrong decision and recover the aforesaid costs from the person who had issued the erroneous orders referred to above.

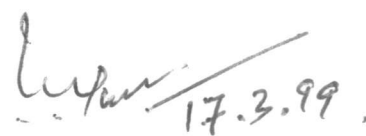
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6. Needless to say that the applicants shall also be entitled to the arrears of the difference of salary and shall also be placed in the replacement scale admissible to them in pursuance to the acceptance of the recommendations of the 5th Central Pay Commission including the arrears.

7. With the above order the O.A. is disposed of.

  
(S.P. Biswas)  
Member (A)

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(T.N. Bhat)  
Member (J)