

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD.

Original Application No.1203 of 2001.

Allahabad this the 16th day of April 2003.

Hon'ble Mr.Justice R.R.K. Trivedi, V.C.

Hon'ble Maj Gen KK Srivastava, A.M.

1. Maha Deo Prasad
Son of Sri Banshidhar.
2. Ram Chander
Son of Bhanu Pratap.
3. Prem Chandra
Son of Sri Bhooj.
4. Jai Nath Yadav
Son of Sri B Yadav.
5. Bhairow Prasad
Son of Sri Awadh Bihari.
6. Swaroop Narain
Son of Sri Mulla.
7. Lajja Ram
Son of Sri Ram Din.
8. Shri Kant
Son of Sri Ganga Deo.
9. B.L. Pal
Son of Sri Mata Din.
10. M. S. Sajwan
Son of Sri P. Singh.
All Nos.1 to 10 are working as Miller in
Field Gun Factory Kanpur.
11. Putti Lal
Son of Sri C. Lal working as Mason in Field Gun
Factory Kanpur.
12. Man Mohan Mishra
Son of Sri S.P. Mishra.
13. S.K. Dinkar
Son of Sri S.P. Mishra
Both are working as Machinist in Field Gun Factory,
Kanpur.
14. S.K. Tripathi
Son of Sri U. Lal working as Machinist
in Field Gun Factory, Kanpur.
15. Gaya Prasad
Son of Sri B. Ram
working as Machinist in Field Gun Factory,
Kanpur.
16. Rama Nand Son of Sri B. Lal.
17. Shri Pati
Son of Sri Ram Das.

Both are working as Painter in Field Gun Factory, Kanpur.

18. A.N. Singh
of Sri F Singh.
19. Majan Singh son of Sri P.N. Singh.
20. Raja Ram Pal
Son of Sri B. Pal.
21. Ishwar Deen
Son of Sri Ram Nath.
22. Surendra Singh
Son of Sri Ram Ashrey Singh
23. R.D. Kushwaha
Son of Sri Rama Nand.
24. J.N. Mishra
Son of Sri S.B. Mishra.
25. D.P. Dwivedi
Son of Sri B.D. Dwivedi.
26. Ram Lakhman
Son of Sri Lal Jaboo.
27. Suresh Chandra
Son of Sri Kungi Lal.
28. Indra Deo
Son of Sri Ram Kisan.
29. Ramesh Chandra
Son of Sri M. Lal

All Nos. 18 to 29 are working as Turner in Field Gun Factory, Kanpur.

.....Applicants.

(By Advocate : Himanshu Singh)

Versus.

1. Union of India through the Secretary
Ministry of Defence,
New Delhi.
2. General Manager
Field Gun Factory, Kanpur.
3. The Adhyaksh Evar Maha Nideshak
Aayudh Niimariya Aayudh Niimani Road
10-A, S.K. Bose Road,
Calcutta-70000.

.....Respondents.

(By Advocate : Sri G.R. Gupta)

ALONGWITH.

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ORIGINAL APPLICATION NO. 1204 of 2001.

1. S.K. Bhatia
Son of Sri D.C. Bhatia.
2. S.K. Salauddin
Son of Imanudin.
3. Sri Pal Yadav
Son of Sri Ganga Prasad.
4. M.P. Singh
Son of Sri B.R. Singh
5. K.N. Verma
Son of Sri B.D. Verma.
6. Babuddin Khan
Son of Sri A.H. Khan.
7. J.N. Pandey
Son of Sri S.S. Pandey.
8. Surendra Bahadur Singh
Son of Late Sri R.S. Singh.
9. Ram Bihari Shukla
Son of Late Sri Mahadeo Prasad.
10. Om Prakash
Son of Sri Babu Sukhi.
11. Ganga Ram
Son of Sri Ram Lal.
12. Chhotkan
Son of Sri Hari Bandan.
13. S.K. Bose
Son of Late Sri B.K. Bose.
14. D.S. Dixit
Son of Sri B.M. Dixit.
15. Kamlesh Kumar
Son of Sri C. Lal.
16. R.K. Agarwal
Son of Late Sri G.P. Agarwal.
17. A.N. Nath
Son of Late Sri S. Chandra.
18. Ram Dewar
Son of Sri Ram Lagan.
19. Jai Deo Tewari
Son of Late Sri J.N. Tewari.
20. Kisan Singh
Son of Sri N. Singh
21. Chipu Hazaria
Son of Sri K Hazaria.
22. Raj Pal Singh
Son of Sri B.P. Singh.

23. Rajendra Kumar
Son of Sri D.L. Prashar.

24. Om Prakash Son of Late Sri G Singh
All Nos.1 to 24 are working as Examiner (Skilled)
in Field Gun Factory, Kanpur.

.....Applicants.

(By Advocate : Himanshu Singh)

Versus.

1. Union of India
through the Secretary,
Ministry of Defence,
New Delhi.
2. General Manager
Field Gun Factory
Kanpur.
3. The Adhyaksh Evm Maha Nideshak,
Aayudh Nirmariya Aayudh Nirmani Board
10-A, S.K. Bose Road,
Calcutta-70000.

.....Respondents.

(By Advocate : Sri G.R. Gupta)

O_R_D_E_R

HON'BLE MR.JUSTICE R.R.K. TRIVEDI, V.C.

In both aforesaid O.A.s, the question of facts and law
are similar and they can be decided by a common order.

2. The applicants in the present original applications
are skilled workers of Field Gun Factory, Kanpur in
different trades. They are aggrieved by order dated
6.9.2001 (Annexure 1) by which their pay in the Skilled
Grades have been fixed from different dates mentioned in
the order which earlier was fixed from 15.10.1984.

3. The facts, in short, giving rise to this dispute are
that the Third Pay Commission recommended that all Semi-
Skilled Workers may be granted Skilled grades. This
recommendation was accepted by Government of India
which appointed a Committee known as Expert Classification
Committee (in short E.C.C.) for laying down criterian



of Industrial Workers of the Ordnance/Ordnance Equipment Factories in the pay scale recommended by the Third Pay Commission. Recommendation of E.C.C were circulated on 16.10.1981, according to which pay scale of various Trades/Grades of the Industrial Workers were to be upgraded w.e.f. 16.10.1981. The list of Trades/Grades did not include the Trades of the applicants and 23 such Trades were left to be included by the Ordnance Factory Board, Calcutta. Therefore, ~~they~~ issued the letter dated 16.01.1985 for grant of upgradation of pay scale from Rs.210-290 to Rs.260-400 with effect from 16.10.1981. In pursuance of order of Factory Board dated 16.10.1981, 23 Trades which included 'Examiner', 'Mason', 'Miller', 'Machinist' and 'Turner' etc. were upgraded from Rs.210-290 to Rs.260-400. Subsequently, it was noticed that some of the Workers were given upgraded ~~scale~~ from Rs.210-290 to Rs.260-400, ~~on relevant dates, as they did not satisfy the conditions of Recruitment Rules. In the order dated 15.10.1984, it was clearly provided as under:~~

"Semi-Skilled categories to be identified by you or feeder categories in the pay scale of Rs 210-290 already existing under the present recruitment Rules, subject to the workers having rendered minimum of three years service in the grade and after passing the prescribed trade test and direct recruits with ITI Certificate/Ex-Trade Apprentices/NCTVT etc inducted in the Semi-Skilled grade who have rendered 2 years service in that grade!".

However, the aforesaid aspect of the conditions necessary for granting the upgradation could not be given effect. Consequently Ordnance Factory Board issued a direction on 19.03.1993 for correction. However, it appears that letter was not received by respondents and they could know only when a report ^{was showing} sought for compliance of order dated 15.03.93 and then the copy of letter was obtained. The show cause notice was served on the applicants and then the impugned order has been passed.

4. We have heard learned counsel for the parties at length.

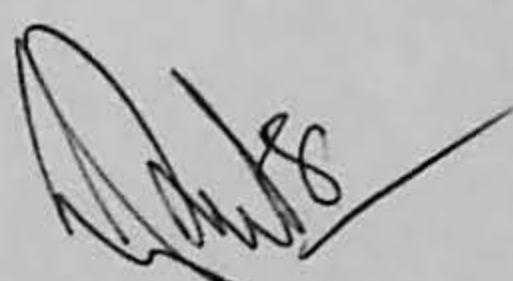
5. However, we do not find any error in the order, as the condition mentioned in the letter dated 23.09.1993 was already existing from very beginning, which was not given effect and the scale was granted ignoring the same. Thus it requires correction, though delay caused in affecting this correction cannot be appreciated, but at the same time a mistake occurred in the record could not be allowed to continue on the ground of delay. In the circumstances, we do not find any error in the impugned orders, correcting the date from which the applicants were entitled for upgradation. Facts have not been placed before us showing that the dates mentioned against the name of applicants in the impugned order are in any way incorrect.

6. Learned counsel for the applicants, however, submitted that the respondents are not entitled to recover the amount from the applicant which has already been paid to them. It is submitted that the applicants were not responsible in any manner for the wrong fixation of pay scale and they received the amount in good faith. We find force in the submissions by the learned counsel for the applicants. So far this aspect of the case is concerned, Hon'ble Supreme Court in the case of Shyam Babu Verma Vs. Union of India and others 1994 (2) SCC 521, has clearly held that amount already paid to the employee under wrong fixation of his pay, for which he was not responsible in any manner, cannot be recovered from him. In view of the aforesaid legal position the applicants are entitled for relief to that extent.

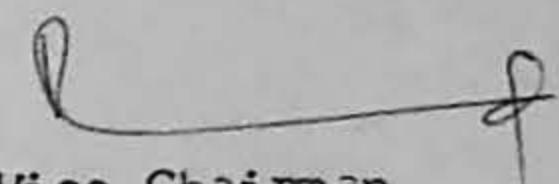
7. For the reasons stated above, this O.A. is partly allowed. The relief against the impugned order

is refused. However, respondents are directed not to recover the amount already paid to the applicants under wrong fixation which has been corrected by the impugned orders. It is further made clear that if the amount has been recovered from the applicants it shall be paid back to them within a period of 4 months from the date a copy of the order is filed.

8. There will be no order as to costs.



Member-A



Vice-Chairman.

Manish/-