

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. Bhairav 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  
Son 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 Lakhan  
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 Evam Maha Nideshak  
Aayudh Nimariya Aayudh Nimani Road  
10-A, S.K. Bose Road,  
Calcutta-70000.

.....Respondents.

(By Advocate : Sri G.R. Gupta)

ALONGWITH.





ORIGINAL APPLICATION NO. 1204 of 2001.

1. S.K. Bhatia  
Son of Sri D.C. Bhatia.
2. S.K. Salauddin  
Son of Imamudin.
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. On 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 Evam Maha Nideshak,  
Aayudh Nimariya Aayudh Nimani 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.As, 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 criterion





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 <sup>E.C.C.</sup> 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 <sup>who</sup> were ~~not~~ given upgraded ~~in the~~ scale from Rs.210-290 to Rs.260-400, <sup>who</sup> were not in scale of 210-290 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 <sup>was</sup> sought <sup>showing</sup> 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.

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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<sup>is</sup> 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, <sup>are</sup> 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 ~~is~~ in any way incorrect.

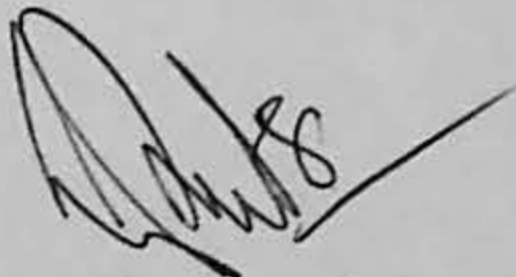
6. Learned counsel for the applicants<sup>or</sup> however, submitted that the respondents are not entitled to recover the amount from the applicant which has already been paid to them. It is submitted that the applicants were not responsible in any manner for the wrong fixation of pay scale and they received <sup>made</sup> the amount in good faith. We find force in the submissions <sup>made</sup> 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 Vema 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

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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 <sup>that</sup> if the amount has been recovered from the applicants <sup>it</sup> 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/-