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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

REGISTRATION NO.1276/86(T)

Ram Swaroop and 14 others plffs/applicants.

Versus

General Manager, Ordnance Clothing
Factory, Shahjahanpur and others Defdts/respondents.

Hon'ble D.S. Misra, A.M.
Hon'ble G.S. Sharma, J.M.

(By Hon'ble D.S. Misra)

This is an original suit no. 551 of 1985 which was pending in the court of Munsif, Shahjahanpur and has come on transfer under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The case of the plaintiff is that they were working under the General Manager, Ordnance Clothing Factory, Shahjahanpur (defendant no. 1) and they had come on transfer on various dates during the year 1976 except plaintiff no. 9 who came on transfer on 23.3.1974; that at the time of their transfer under defendant no. 1, plaintiff nos. 1, 2, 5, 6, and 8 to 15 were working as Junior Examiner in the scale of Rs 210-290 and plaintiff nos. 3, 4, and 7 were working as Machinist Grade 'C' on an identical scale of pay; that the designation of plaintiff no. 9 was changed to Tailor Grade 'C' at the time of his transfer; that on transfer, plaintiffs were appointed as Labour Grade 'B' by defendant no. 1 in an arbitrary manner and the plaintiffs performed their duties as they had no other alternative; that plaintiffs nos. 1 to 7 and 11 were promoted as Tailor 'B' on 12.2.78;

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that plaintiff nos 8 and 12 on 1.1.1979, no.10 on 16.9.79, no.14 on 5.7.76 and no.13 on 8.9.77 were promoted as Machinists and plaintiff no.15 was promoted as stamper on 27.1.1981; that in the year 1981, the scale of pay of Tailor Grade 'C' was revised to Rs 260-400 and at the time of their transfers plaintiffs were getting Rs 226/- per month and they were given Rs 260/- per month and the difference of Rs 34/- per month was paid to all the plaintiffs upto the year 1983; that several other persons who were recruited along with the plaintiffs and were working under the General Manager, Ordnance Clothing Factory, Khamaria Jabalpur have been promoted and getting Rs 346/- per month but the plaintiffs are getting only Rs 308/- per month, with the result that the plaintiffs are suffering loss every month; that inspite of repeated requests made to defendant no.1, the salary of the plaintiffs have not been increased and hence the present suit. The plaintiffs have prayed for issue of a declaration that the plaintiffs are entitled to fixation of their pay according to their original posts and also promotions to which they had become entitled.

3. In the written statement filed on ~~their~~ behalf of the defendants, it is conceded that the plaintiffs were working as Tailors with defendant no.1 before their transfer on reversion due to reduction of work load in the year 1966-67; that when the work load position improved, the plaintiffs were transferred to Ordnance Factory, Shahjahanpur on their own free-will for absorption in tailor's post after due trade test etc; that the applicants are seeking financial benefits which they suffered due to their reversion which is not proper

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and the suit is not maintainable; that all the plaintiffs except sl.no.9 were reverted to Labour Grade 'B' in Ordnance Clothing Factory, Khamaria etc. before their transfer to defendants' factory and plaintiff at sl.no.9 was reverted to Tailor Grade 'C' from the post of Junior Examiner before his transfer in 1974; that the scale of pay of Tailor's C, D. and B was made common scale of Rs 210-290 by the Third Pay Commission and w.e.f. 16th October, 1981 it was revised to the scale of Rs 260-400 and arrears accrued thereon were also paid to the plaintiffs; that the promotion of workers are made factory wise depending on their requirements etc. and the pay fixation of the plaintiff has been done correctly; that no representation of the plaintiffs is available on the record and the plaintiffs are not liable to get any relief as prayed for.

4. A replication (rejoinder-affidavit) was filed on behalf of the plaintiffs in which it is stated that the reversion order of the plaintiffs is no more in existence in the eye of law, in view of the order dated 15.11.1980 passed by the Central Government Industrial Tribunal cum Labour Court, Jabalpur (M.P.); that the plaintiffs qualified in the trade test before their transfer to Shahjahanpur; that the plaintiffs nos. 1 to 11 are piece workers and nos. 12 to 15 are day workers; that the basic pay difference to the day workers have been paid but the basic pay difference to the piece workers has not been paid till date; that all the applicants have suffered financial loss and correct difference of pay has not been paid to them. The plaintiffs filed a copy of the judgment dated 15.11.1980 of the Central Government Industrial Tribunal cum Labour Court, Jabalpur.

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5. We have heard the arguments of the learned counsel for the parties. The contention of the applicants is that several other persons, who were similarly transferred to Khamaria, Jabalpur and were reverted as labour had filed applications before the Central Government Industrial Tribunal which had held that the reversion order would not be in existence in the eye of law and the applicants shall be restored back to the original ~~post~~ position which they held before the order of reversion. These persons have already been given the benefit of the above mentioned order dated 15.11.1980 of the Central Government Industrial Tribunal, Jabalpur. The operative portion of this order reads as follows:

"It is not disputed before me that the applicants were working as Tailors before their reversion as Labour Grade 'B' and transfer to Ordnance Factory Khamaria. When the order by which they were reverted to Labour Grade B has been superseded by a subsequent order of the competent authority, the applicants shall be deemed to have been restored back to the position Grade 'C'. Therefore, the applicants are entitled to get their salary fixed in the grade of tailor after their transfer to Ordnance Factory Khamaria, Jabalpur, in the unrevised pay scale. After the pay of the applicants is fixed in the unrevised pay scales as above, the applicants will have an option to opt for the revised grade and then they shall exercise the option according to Rule 6 of the Civilians in Defence Services (Revised Pay) Rules, 1973. After the exercise of the option by the applicants the revised pay scales of the applicants shall be fixed according to the provisions of the Civilians in Defence Services (Revised pay) Rules 1973."

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6. The plaintiffs have contended that pay in those cases has been fixed in the grade of Tailor in which they were made quasi permanent by an order issued subsequent to the transfer order. Prior to the decision of the Labour Court the matter was also agitated in the Jabalpur High Court by some other applicants and the relevant portion of the order of the High Court reads as follows:

"The orders by which the petitioners were made quasi permanent on the posts of Tailors were issued subsequent to the transfer order. The order of transfer of the petitioners and their consequential reversion must be taken to have been superseded by the orders making them quasi permanent on the post of Tailors. The orders by which the petitioners were made quasi permanent clearly entitled them to get the salary of the post of Tailors."

It appears that the order of the Jabalpur High Court and the subsequent order of the Central Government Industrial Tribunal cum Labour Court Jabalpur have been implemented by the defendant no 2 in respect of the employees working under him but the same has not been done in case of applicants, who were transferred under defendant no. 1 prior to the above mentioned decisions of the Jabalpur High Court and the Labour Court at Jabalpur. The plaintiffs' prayer is for a proper implementation of these orders in their case also. Learned counsel for the defendants were unable to meet this contention of the plaintiffs and they have reiterated the previous contention that the plaintiffs were reverted as Labour Grade B by defendant no 2 before their transfer under

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them on their own option and that they had no claim to get the benefit available to the workers who remained at Khamaria. We have considered the matter and we are unable to accept this contention of the defendants as both groups of employees were working under the same organization of the Central Government and the plaintiffs can not be given a treatment which is different from their other colleagues similarly placed and such action would be violative of Articles 14 and 16 of the Constitution. We are of the opinion that the plaintiffs are entitled to an equal opportunity of protection of their salary as a result of their order of reversion having become non-existent and the plaintiffs ^{have} also become entitled to refixation of their salary as well as promotion on higher posts according to their qualifications and suitability.

For the reasons mentioned above, the plaintiffs' suit is decreed without any order as to costs.

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J. M.

JS.17.1.1988