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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Allahabad Bench, Allahabad

Registration No. TA-617 of 1987

C.O.D. Mazdoor Sangh ... Applicant

Versus

The Union of India & Others ... Respondents

Counsel for the applicant ... Mr. N.K.Nair

Counsel for the respondents ... Mr. Shrish Chandna

Coram: Hon'ble Shri P.S.Habeeb Mohamed, Member (A)

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

Hon'ble Shri P.S.Habeeb Mohamed, Member (A):- This W.P.

No.360/2 of 1975 filed by the C.O.D.Mazdoor Sangh,

Kanpur through the General Secretary of the Union with
the ~~prayers~~ ^{was} detailed below, received on transfer in this

Tribunal under section 29 of the Administrative Tribunals

Act, 1985:-

(i) to issue a writ, order or direction in the nature of Mandamus commanding the respondents to place the Tailors working in Ordnance Depot and those working in Ordnance Factory and were falling under Grade B in one in the same category of skilled employees and to pay the same pay scale of Rs.260-400 with effect from the date of revision in the pay scale with all accrued and future benefits and arrears;

(ii) To issue a writ, order and direction in the nature of mandamus commanding the respondents to give ~~skilled~~ category to the Tailors working in Ordnance Depots and the pay scale of Rs.260 -400 with all benefit of promotion etc.

attached thereto and payable/available from time to time with effect from the date when the Tailors working in Ordnance Factory and falling under grade B were put under the said skilled category and pay scale.

- (iii) to issue a writ in the nature of mandamus commanding the respondents to give the Tailors working in Ordnance Depot further chance of promotion to the grade of higher skilled grade II and higher skilled grade I carrying the pay scale as fixed thereto or Revised from time to time with all benefit attached thereto.
- (iv) to issue any other writ, order or direction which may be deemed fit and proper in the circumstances of the case.
- (v) To award costs of this writ petition to the petitioner.

2. The facts stated in the writ petition, re-numbered as

TA-617 of 1987 are that the petitioner is a registered trade Union functioning in the Central Ordnance Depo^t

Kanpur under the Ministry of Defence and looking after

the benefits of the industrial and non-industrial and

non-gazetted staff of the C.O.D., Kanpur. The present

petition relates to the Tailors employed in the Central

Ordnance Depo^t, Kanpur. There are also Tailors working

in the Ordnance Equipment Factory^{ies} under the Ministry

of Defence. At present there is a differentiation in the

pay scales of the Tailors of the Ordnance Depo^t

represented by the C.O.D. Mazdoor Sangh who is the

petitioner in the present writ petition and the Tailors

of Grade-B in the Ordnance Equipment Factory^{ies}. Earlier to

the report of the 3rd Pay Commission for the Central

Government Employees the pay scale for the Tailors in the

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in the Ordnance Depot and the Tailors of Grade-B in
 the Ordnance Equipment Factory, ^{way} were the same
 Rs.85-95-3-128 and they were doing the same job
 of similar scale and nature.

3. In the year 1973 the 3rd Pay Commission had submitted its report and recommended for revision of the pay scale of the Tailors. According to the petitioner the Commission had recommended that equal pay be given for equal work. On the recommendation of the 3rd Pay Commission an Expert Classification Committee was set up in the year 1974 in the Ministry of Defence under the Chairmanship of Justice K.C.Puri (a retired Judge of Allahabad High Court). The task of the Committee was to fit the industrial workers in the appropriate pay scale after applying the technique of job evaluation. The Expert Classification Committee submitted its report to the Government in January, 1979 and the Government order was issued - No.F.1(2)80/D(ECC/IC) dated 16th October, 1981 classifying the industrial workers ^{according to} into five scales of pay which are -

<u>Category</u>	<u>Scale</u>
Unskilled	Rs.196-3-320-EB-3-232
Semi-skilled	Rs.210-4-226-EB-4-250 -EB-5-290

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Skilled Rs.260-6-290 -EB-6-326-8-366-
EB-8-390-10-400

Highly Skilled Rs.330-8-370-10-400-EB-10-480
Gd.II

Highly skilled Rs .380-12-500-EB-15-560
Gd. I

The G.O. dated 16th October, 1981 contains two stipulations; (i) that since one job carrying the semi-skilled scale of pay would stand upgraded to the skilled grade of Rs. 260-400, a viable feeder grade should be identified at the semi-skilled level in the or allied trades, or the posts in these jobs should be apportioned in the scale of Rs. 260-400 and Rs. 210-290 and (ii) anomalies, if any, coming to light as a ~~and~~ ^{after} solution of fitment should be brought to the notice to the Ministry within a period of six months.

4. However, what really happened is that the

respondent no.1 treated the tailors working in the

Ordnance Depot who were doing the same type of work

in a different manner from the Tailors working in the

Ordnance Equipment Factory (Grade-B); the Tailors of

the Ordnance Depot have been placed in the semi-skilled

category in the scale of Rs. 210-290 while the Tailors

working in the Ordnance Equipment Factory (Grade-B)

were placed in the skilled category in the pay scale of Rs. 260-40 0/-.. This is against the principle of equity, natural justice and fair deal. Respondent no.3, Director of Ordnance Services, was required under the G.O. to bring anomalies to the notice of the Ministry but did not report the anomalies in the case of the Tailors represented by the petitioner - Mazdoor Sangh. Even though the petitioner made a representation dated 5.5.83 regarding their anomalies no action was taken on these anomalies. If the recommendation of the anomalies Committee which are reproduced in the petition had been duly considered by the respondents the satisfaction of the petitioners would have been partly obtained. As a matter of fact what happened was that the matter was not gone into in depth. According to the petition the Tailors represented by the petitioner Mazdoor Sangh, are discharging the same duty of the same nature in the Ordnance Depots as are being discharged by the Tailors working in the Ordnance Equipment Factory and falling under Grade-B. In any case before the 3rd Pay Commission's Report, the Tailors of the Ordnance Depot and the Ordnance Equipment Factory (Grade-B) were getting the same scale of Rs.85-128 and there is no reason that the similarity of work and pay scale should have been disregarded as has been done

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by the order passed by the respondent no.1 which has affected the Tailors of the Ordnance Depot to their detriment. Accordingly the grievance has arisen and hence the prayers made in the petition.

5. In the reply filed by the respondents apart from stand that C.O.D. Mazdoor Sangh is a non-recognised Union of the Depot, it is stated that the tailors are employed not only in the Ordnance Depot and Ordnance Factory but also in the various other organisations under the Ministry of Defence. It is not denied in the Counter-Affidavit that the prior to the 3rd Pay Commission Report, the pay scale of the Tailors of Ordnance Depot and the Tailors in the B.Grade in the Ordnance Equipment Factory was Rs. 85-128/-, but the Tailors ^{by} ~~who are~~ doing different types of jobs as per the job requirement in the respective Units and they were not doing the same job which required similar skilled or was of the same nature. The same pay scales have been fixed prior to the Third Pay Commission Report as no co-ordinated efforts have been made to fix the pay scales in the various defence organisations as per the skilled requirement and this Task of co-ordination was done by the Expert Classification Committee set up by the Ministry of Defence on the recommendation of the Third

Pay Commission. Though certain temporary measures were suggested by the Third Pay Commission, there was an observation by the Commission that the Tailors - workers in the pay scale of Rs. 85-128/- should be reclassified after proper job re-valuation. The Expert Classification Committee was set up in October, 1974. The Committee adopted the "point rating" method for evaluating ~~more~~ of more than 1700 industrial jobs in various Defence Establishments. The Committee submitted its report in January, 1979 and recommended 9 pay scales for appropriate differentiation of the skills as against 5 pay scales contemplated by the Third Pay Commission. But when the report of the Expert Classification Committee was considered by the Government two Workers Federations wanted 5 pay scales of different workers as suggested by the Commission and this demand has been considered by the Government. It is stated that the demand pay scales recommended by the Expert Classification Committee was compressed into 5 pay scales. A comparative chart of the co-relation point ranges based on the E.C.C. recommendation and the 5 pay scales recommended by the Third Pay Commission are shown below in detail:-

ECC Co-relation point range on nine pay scales basis	
Scale	Points
Rs.196-232	upto 205

Co-relation point range evolved on the basis of five pay-scales	
Scale	Points
Rs.196-232	upto 205

Subject

<u>Scale</u>	<u>Points</u>	<u>Scale</u>	<u>Points</u>
Rs. 210-290	206-240	Rs. 210-290	206-250
Rs. 225-308	241-260		
Rs. 260-350	261-290		
Rs. 260-400	291-315	Rs. 260-400	251-328
Rs. 320 -400	316-340		
Rs. 330-480	341-375	Rs. 330-480	329-488
Rs. 330-560	376-399		
Rs. 380-560	400 and above	Rs. 380 -560	389 and above

Government order on the subject of the pay scales was issued in 1981.

6. It is stated in the Counter-Affidavit that because of the higher 'point rating' the Tailors in the Defence Equipment Factory was given higher pay scale as compared to the Tailors in the Ordnance Depot who are the petitioners in the present petition. Another differentiation is sought to be established in the Counter-Affidavit that while the Tailors in the Ordnance Factory worked on automatic machines and the Ordinary Tailoring machines are used in the Ordnance Depot ^{and} sometimes the Tailors work out repair of the machines]. Therefore, a differentiation is sought to be established ^{with reference to} ~~that~~ the job performed by the Tailors in the Equipment Factory. There is no relation of the job ^{to} ~~is~~

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in similar category of works in the Ordnance Depo^t and hence there is no discrimination. It is also stated that the category of Tailors was not studied by the Anomaly Committee, ^h plea being that there were no anomalies. On the whole the stand is that while Anomalies Committee studied trades, like Book Binders, ^{etc,} Leather Stichers, Engine Drivers, Upholsterer, ^h there was no need for study ^w the case of the Tailors.

7. In the Rejoinder Affidavit filed by the petitioner, the details of the Membership of the Union have been submitted and there has been no question of the petitioner belonging to any ^w recognised Union. The job of the Tailors ~~for~~ ^w are fabrication on ordinary/power machine and by hand stitching as per requirements. The tailors in AOC are doing the same job as the factories' tailors are doing. The tailors in COD Kanpur also prepare the items to complete the requirement of Army Units on work order when the Ordnance Factories failed to complete the requirements of the Army Unit. The Expert body like the E.C.C. had not done the proper re-classification of jobs of the Tailors, ^b particular^f the E.C.C. committee had not assessed the job of the Tailors of the COD, Kanpur. The Tailors in the C.O.D., Kanpur worked also on automatic power machines. Their work particularly the

job skill efforts required had not been seen physically by the Team of the E.C.C. Certain details are given of the power machines in the C.O.D., Kanpur on which the Tailors are working. It is stated that the Tailors of the C.O.D., Kanpur at several times got the order to prepare Bag Sleepings from the Ordnance Equipment Factory and jobs have been completed in time to the satisfaction of the authority.

8. In an additional counter-affidavit filed by the respondents it is stated that the installation of electric sewing machine was done in the Ordnance Depot Kanpur; though primarily meant to improve the working condition and production, it is not a similar job done by the Tailors in the C.O.D., Kanpur. To complete the work as one time requirement does not mean that same type of work and same items of the work for the Tailors of the Ordnance Equipment Factory and the Tailors of the Ordnance Depots are done. Besides the Central Administrative Tribunal, Bombay Bench, had dismissed an application filed by some petitioners similarly situated and the case was dismissed by the Bombay Bench in OA-320 of 1986. The petitioner in present T.A. had filed a ^{reply to} L

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to ~~be~~ the additional counter-affidavit filed by the respondents in which the contentions in the additional counter-affidavit are denied and certain details are given to show that the work was not one time requirement but was in the nature of their regular duties. Some documents have been filed along with this paper.

9. We have gone through the records of the case and heard the arguments of the parties. The learned counsel for the petitioner, Shri Nair emphasised that the requirement as the Government Order No.1(2)/80/D/Ecc/IC dated 16.1.1981 (Annexure-2 of the petition) has not been complied with ... ~~were~~ "In such cases viable feeder grades should be identified at the ~~maxx~~ semi-skilled level in the same or allied trades, or the posts in these jobs should be apportioned between the scales of Rs.260-400 and Rs.210 -290."

He emphasized that this contemplated ^a class of workers of Tailoring, the Tailor's ^a mets. As to ^{the} stand taken by the learned counsel for the respondents that ~~with~~ ^b a reference to the Tailor's ~~made~~ mates ⁱⁿ was not there anything ~~of~~ the Government order on the subject, Shri Nair drew pointed attention to the correspondence that the then Minister of Defence to a Member of Parliament dated 1.9.1983 which is filed as Annexure-4, in which it is stated that the problem of 'Tailors and Tailor Mates' being placed in the same scale of Rs. 210-290 ~~was~~

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concerned, this problem was being examined and certain other categories were also placed in identical situation. The learned counsel for the petitioner also stated that there was clear admission that there were anomalies in the pay fixation. ^{which} the Anomalies Committee had not studied the problem at all. There was no fundamental difference between the machines installed in the Defence Equipment Factory and the Machine installed in the Ordnance Depot and the work done in the same were not complied ^{as} at one time requirement but regular work, ^{of} this indicates that the principle for equal work for equal pay ^{was} were not enforced in respect of the petitioner and to this extent there was discrimination and violation of rights. The learned counsel for the respondents ~~stated~~ ^{stated} that the pay scales had been fixed properly. Since there were no anomalies, there was no scope for anomalies Committee. Besides the correspondence obtained by the petitioner in reply to the additional counter-affidavit was an internal matter of the departmental authority and could not give rise to any claim.

10. ^{He stated} that the department had considered that in respect of two categories of the employees - tailors there has been ^{no} acceptance ^{of the} of a position that

they were doing equal and similar work. It was, besides, stated that the judgment of the Bombay Bench of the Tribunal in OA-320 of 1986 would not apply because the Tailors of the Ordnance Depot elsewhere ^{had} have been working on other types of machines and not on automatic machines or electric machines or other types of machines as in Kanpur nor could be Tailors elsewhere in the Defence Establishments obtained ^{the} ~~bank~~ priority with the Tailors - workers in the C.O.D., Kanpur.

11. The learned counsel for the respondents made a reference to a case disposed of by the Allahabad Bench filed by the some Tailors (Chandan Lal & 67 others) in OA-361 of 1987 where a similar prayer by them was rejected by the Tribunal though on the ground of limitation.

12. After ~~examining the~~ examining the documents and hearing the rival arguments we do not find material to come straightway to the conclusion that the petitioners' Tailors are doing the same types of work which will justify equivalent scale of pay.

13. In the case of Umesh Chandra Gupta & others Vs. Oil and Natural Gas Commission and others reported in AIR 1989 Supreme Court 29 their Lordships of the Supreme Court made following observations and given directions:-

"3. The nature of work and responsibilities

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of the posts are matters to be evaluated by the management and not for the Court to determine by relying upon the averments in the affidavits of interested parties. We have stressed this point in a recent judgment (in Civil Appeal No.56 of 1987, State of U.P. and Ors. V. J.P. Chaurasia and Ors. disposed of on 27 September, 1988) (reported in AIR 1989 SC 19 at para 17). There we said:

"the question depends upon several factors. It does not just depend upon either the nature of work or volume of work done by Bench Secretaries. Primarily it requires among others, evaluation of duties and responsibilities of the respective posts. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance. The quantity of work may be the same, but quality may be different. That cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the Executive Government. It must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the Court should normally accept it. The Court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration."

4. What applies to the Government and Government servants must equally apply to any management and its employees. If the management for good reasons have classified the posts into two categories with different pay scales, the Courts generally must accept unless it is demonstrated that it is patently erroneous either in law or on fact."

14. We have also kept ~~it~~ in view, certain other observations and directions given by the Supreme Court on the question of the application of the same or similar pay scales. In the case of Federation of All India Customs and Central Excise Stenographers V. Union of India and others 1988(2) SLR 721), the Supreme Court rejected the claim of parity of pay scale of Stenographers

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attached to officers in the scale of Rs.2500 -2750

(Pre-Fourth Pay Commission) outside the Central Secretariat with those attached to Joint Secretaries in the same pay scales working in the Central Secretariat observing as follows:-

" The same amount of physical work may entail different quality of work, some more sensitive, some requiring more tact, some less it varies from nature and culture of employment. The problem about equal pay cannot always be translated into a mathematical formula. If it has a rational nexus with the object to be sought for, as reiterated before, a certain amount of value judgment of the administrative authorities who are charged with fixing the pay scale has to be left with them and it cannot be interfered with by the Court unless it is irrational or based on no basis or arrived mala fide either in law or in fact. In the light of the averments made and in the facts mentioned before, it is not possible to say that the differentiation is based on no rational nexus with the object sought for to be achieved..."

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Recently recalculating the earlier decisions,
their Lordships of the Supreme Court had held in the case of Supreme Court Employees Welfare Association Vs. Union of India & others, on the question of equal pay for equal work as follows:-

"38. It follows from the above decisions that although the doctrine of 'equal pay for equal work' does not come within Art. 14 of the Constitution as an abstract doctrine, but if any classification is made relating to the pay scales and such classification is unreasonable and/or if unequal pay is based on classification, then Art.14 will at once be attracted and such classification should be set at naught and equal pay may be directed to be given for equal work. In other words, where unequal pay has brought about a discrimination within the meaning of Art.14 of the Constitution, it will be a case of 'equal pay for equal work', as envisaged by Art.14 of the Constitution. If the classification is proper and reasonable and has a nexus to the object sought to be

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achieved, the doctrine of 'equal pay for equal work' will not have any application even though the persons doing the same work are not getting the same pay. In short, so long as it is not a case of discrimination under Art. 14 of the Constitution, the abstract doctrine of 'equal pay for equal work', as envisaged by Art.39(d) of the Constitution, has no manner of application, nor is it enforceable in view of Art.37 of the Constitution. *Dhirendra Chamolia v. State of U.P. (1986) 1 SCC 637* is a case of 'equal pay for equal work, as envisaged by Art.14, and not of the abstract doctrine of 'equal pay for equal work'.

39. The learned Attorney General has also placed reliance on some recent decisions of this Court on the question as to the applicability of the doctrine of 'equal pay for equal work.' In *State of Andhra Pradesh V. G.Sreenivasa Rao, (1989) 1 JT 615 (SC)* it has been observed that 'equal pay for equal work does not mean that all the members of a cadre must receive the same pay-packet irrespective of their seniority, source of recruitment, educational qualifications and various other incidents of service. In *V. Markendeya V. State of Andhra Pradesh, (1989) 2 JT 108 : (AIR 1989 SC 1308)* it is laid down that on an analysis of the relevant rules, orders, nature of duties, functions, measure of responsibility and educational qualifications required for the relevant posts, if the Court finds that the classification made by the State in giving different treatment to the two classes of employees is founded on rational basis having nexus to the object sought to be achieved, the classification must be upheld."

16. Taking these decisions in ^{to} the count and the materials placed before us it will be difficult for us to come to the conclusion that there is similarity or equivalence of work and to grant the relief prayed for by the petitioner. But these observations are made only so far as granting the relief ^{by us} is concerned.

17. At the same time we must observe that there are sufficient material for the respondents to re-examine the matter and take a decision on the

subject matter of the petition with reference to the relief claimed by the petitioner.

18. The question whether the petitioner is a recognised Union or not was not pressed during the arguments and therefore it need not be entertained by us. It is noticed that though the Expert Classification Committee gave recommendation in pursuance of suggestion of the Pay Commission about 9 pay scales which would have applied in the case of some of the petitioner's/employees, ultimately, it was on the request of the two Federations that the five pay scales were approved and the letter No.F.1(2)80 /D(ECC/IC) dated 16th October, 1981 was issued. Obviously the classification by the Expert Classification Committee in so far as the technical job evaluation was concerned on the basis of points assigned to each job was not gone into and on the presumption that there were no anomalies, the anomalies were not gone into by the respondents. Similarly, there is no doubt that some part of work is similar to what is done by the Tailors in the skilled category (Grade B) is done by the petitioners - Tailors in the Kanpur C.O.D. There will be a case for re-assessment of works on the strength of machines used and other relevant considerations. The respondents, therefore, will take a fresh assessment of the work done. The modalities as to how this has to be done are left to the respondents; whether to process through the Expert Classification Committee or examination by the Anomalies Committee or a combination of

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both or any other suitable method, is, to be decided by the respondents. There is no doubt that the feeder ^{refused} categories as were ^{refused} to be determined in terms of the Government Order No.F.1(2)80 /D(ECC/IC) dated 16th October, 1981 are not determined yet and there is definitely a reference to the Tailor mates in the letter of the Defence Minister to the Member of Parliament referred to earlier. All relevant considerations must be gone into and the nature and equivalence of work performed by the petitioner - Tailors must be determined by the respondents within a period of four months and after that necessary order be issued. The respondents are directed accordingly.

19. With these directions the TA-617 of 1987 is disposed of. The order is to be implemented within a period of 6 months from the date of receipt of a copy of this order as it may take some time to issue the order after the 4 months' period referred to above. There shall be no order as to costs.

J. P. Sharma
(J.P.Sharma)
Member (Judicial)

25/5/90

Anounced by Dr. Faizan J. M.

P. S. Habeeb Mohamed
(P.S.Habeeb Mohamed)
Member (Administrative)

J. P. Sharma

25/5/90