

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALIA HABAD BENCH

Registration T.A.No. 1284 of 1987

Lal Chand Yadav

Applicant

Vs.

Union of India & Others

Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

This is a transferred case under Section 29 of the Administrative Tribunals Act, 1985. The applicant has filed a writ petition before the High Court for quashing the order contained in paras 2 and 3 of Director, Military Farm, Army Head Quarter, letter dated 27.7.83 and for issuance ^{of} a writ of mandamus commanding the respondents to re-fix the salary of the applicant payable to a Semi-skilled trade's man in lower formations under Quarter Master General's Branch in the scale of pay as revised from time to time and to pay the remainder of the salary and other allowances payable to the petitioner in accordance with the revised pay scale. By operation of law this writ petition has been transferred to this Tribunal. The applicant was appointed as Assistant Tractor Driver at Military Dairy Farm, Meerut Cant. Meerut in the pay scale of Rs.75- 1-85- 2-95 plus usual allowances as applicable to the Central Government servant vide letter dated 4.3.1971. It has been stated by the applicant that a Tractor Driver/Assistant Tractor Driver comes under the category of Industrial trades-man while the job of a Tractor Driver is regarded as a skilled job, the job of an Assistant Tractor Driver is considered as semi-skilled one. The applicant has been continuously working on the said post since his appointment in the year 1971. In view of the Third Pay Commission report

the pay scales were revised in the year 1973 and according to the revised pay scale those working on an industrial post in lower formations under Q.M.G.'s Branch in the pay scale of Rs. 75-95/- became entitled to the scale of Rs.210-290/- and those working as Machine Hand(Class-IV) became entitled to grade of Rs.200-250/- from 1.1.1973. Subsequently, on the report submitted by the committee formed by the Central Government on "Expert Classification of Common Category Jobs" the grade of Rs.200-250/- was further raised to Rs.210-290/- with effect from 16.10.81. The applicant was sponsored by the Employment Exchange, Meerut for employment in the category of skilled Tradesman and was appointed in the category of Semi-skilled Tradesman and was eligible for being considered for appointment as a skilled Tradesman(Tractor Driver), but being the applicant was/denied the benefit of semi-skilled Driver. He received his pay and other allowances payable to a semi-skilled Tradesman upto December,1972, but after the implementation of the 3rd pay commission's report the respondents started paying salary and other allowances to the applicant in the scale of Rs.196-232/- which is payable to an unskilled Tradesman. The applicant/representations after representation. The applicant received a letter dated 30.8.1983 from the Office Incharge, Military Farms, Allahabad alongwith the extracts of Director, Military Farms Army Head Quarter letter dated 27th July,1983 . The applicant has placed reliance on paragraphs 2 and 3 of the Director's letter which reads as follows:-

"There is no category of Assistant Tractor Driver authorised in military Farms Department and no Recruitment Rules for this category have ever been framed. It is not understood as to how Sri Lal Chand has been designated as Assistant Tractor Driver in the absence of Recruitment Rules. However, the category of MFC-IV in which the individual was presumably appointed has since been recategorised as 'Farm Hand.'"

"It is observed from the service book that the individual was appointed in the scale of Rs.75-1-85-EB-2-95 which was applicable for the grade of FHC-IV (now Farm Hand) and his pay has accordingly been fixed under RPF.73 at Rs.199/-.

In view of the above we are of the opinion that the pay of the individual has been correctly fixed and no further revision is required in this case. Since no such category exists in this department, the question of fixation of pay of the individual as proposed vide para 5 of MF Allahabad letter referred to above does not arise. The individual may be informed accordingly.

2. It has been stated by the applicant that even if he ~~has~~ been treated as an employee belonging to the category of Machine Hand (Class-IV) he was entitled to the scale of Rs.200-250/- with effect from 1.1.1973 and Rs.210-290/- with effect from 16.10.1981, in view of implementation of the report of the committee headed by Mr. Justice K.C.Puri. But even that benefit has been denied to him, and the observation made by the Director, Military Farms Army Head Quarters in his letter which has been extracted above is discriminatory and no reliance could be placed to the same have been placed, though the respondents have placed reliance on the same.

3. The respondents have refuted the claim of the applicant and have pleaded that the applicant was appointed as Machine Hand Class IV and this category in Revised Pay Rules, 1973 has been re-categorised as Farm Hand in the pay scale of Rs.196-3-220-EB-3-232. There is no category of Assistant Tractor Driver authorised in Military Farm Department and no recruitment rules for this category have been framed by the Government of India and as such the pay of the applicant has correctly been fixed. It has also been stated that the applicant was originally appointed by the Deputy Assistant Director, Military

Farm, Meerut and he has not furnished any documents regarding his employments and he has also not furnished any proof of his appointment made by the Military Farm. He was un-skilled and non-industrial employee and belongs to the category of the Farm Hand employee and he cannot take benefit of an industrial employee which is a separate category by itself. He not being any industrial employee nor skilled employee and he is only un-skilled employee. The post of Assistant Tractor Driver appears to be only in industrial category and not in the non-industrial category to which the applicant belongs. In the non-industrial category there is no post of Assistant Tractor Driver and as such the applicant cannot claim the benefit which is admissible to the Assistant Tractor Driver.

4. On behalf of the applicant it has been pleaded and contended that the scale of Rs .75-1-85-2-95 was not applicable for the grade of Machine Hand Class IV. It is evident from Annexure C.A.I, appendix 'A' and it does not mention Machine Hand Class IV among the categories of employees in the said scale. As a matter of fact from the appendix it appears that the Machine Hand Class III as well as Machine Hand Class IV employees come under the categories of Industrial employees, and the post of Assistant Tractor Driver are known as Machine Hand Class III employees in the department. This contention of the applicant stands negative from the Government of India, Ministry of Defence letter dated 28.9.1966 a copy of which is annexed to the Counter Affidavit as C.A.I. which reads as follows:-

I am directed to convey the sanction of the President to the grouping of some of the existing categories of class IV employees in

Military Farm as shown in Appendix 'A' to this letter under one single category to be called as 'FARM HAND' a non-industrial category in the pay scale of Rs .70-1-80EB-1-85. The management is further empowered to allot them any duty on farms as considered necessary depending on the seasonal requirements and in the best interest of economy, personal management and discipline. The existing incumbent, other than casual employees, who are wasted a higher pay scale will continue in that scale till they are wanted out but new entrants will be employed as Farm Hand in the pay scale given above.

Needless to say that the applicant was appointed after the issue of this letter which is the sanction of the President. It was further stated by the respondents that the remaining categories of Military Farms employees comprising of class III and class IV as shown in Appendix 'B' will not undergo any change and they will continue to be employed in the same pay scale as heretofore. As such the contention of the applicant cannot hold any water. This also/negatives his claim that he belongs to the un-skilled and industrial category. Thus being un-skilled and non-industrial employee the applicant cannot claim benefit of the post of Assistant Tractor Driver which is a industrial and skilled category, merely because a particular nomenclature is given but if special treatment is given that would not confer the benefit of one side to the other side. So long as the applicant remains as a non-industrial employee he cannot be given the benefit of the industrial side. As such no relief can be granted to the applicant and as this application deserves to be dismissed and accordingly it is dismissed. There will be no order as to costs.

R. Subrahmanyam
Member (A)

lu
Vice-Chairman.

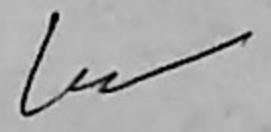
T.A.No.1284/87

28.2.92

Hon'ble Mr. Justice U.C.Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

Heard Sri Sudhir Agrawal for the
applicant and Sri K.C.Sinha for the
respondents.

Judgment dictated separately.


A.M.

V.C.

(sph)