

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 398 of 1999

_____ day this the 3rd day of October 2007

**Hon'ble Mr. Justice Khem Karan, Vice Chairman
Hon'ble Mr. K.S. Menon, Member (A)**

1. Shoraj Singh, Ticket No.2731, Son of Shri Harpal Singh, Resident of Village and Post Dabadhuwa, District Meerut.
2. Desh Mitra Jauli, Ticket No. 530, Son of Shri Heera Nand Jauli, Resident of 358 Subhash Puri Kakar Khera, Meerut.
3. Siza Uddin, Ticket No. 1424, Son of Shri Shahabuddin, Resident of 189 Kabari Bazar, Sadar Bazar, Meerut.
4. Tilak Raj, Ticket No. 1429, Son of Shri Chaman Lal, Resident of S S C Prahalad Nagar, Meerut.
5. Dharm Pal, Ticket No. 1702, Son of Shri Sai Das, Resident of 326 Jai Devi Nagar Garhroad Meerut Kumhar Vidhayalay.
6. Puran Chand, Ticket No. 2225, Son of Shri Ram Ji Lal, Resident of 14 Purwa Aahiram, Meerut.
7. Preetam Singh, Ticket No. 2368, Son of Shri Jogendra Singh, Resident of 75/3 Gras Mundi Meerut.
8. Arantar Ali, Ticket No. 2412, Son of Shri Hafizuddin, Resident of Village Bhawanpur, Post-Siyal, District Meerut.
9. Satya Kumar Sharma, Ticket No. 2422, Son of Shri Charan Singh, Resident of Village and Post Rasana, District Meerut.
10. Mulakhraj, Ticket No. 2444, Son of Shri Radha Kishan, Resident of 179 New Aarya Nagar, Kakar Kheda, Meerut Cantt.
11. Hari Kishan Tayai, Ticket No. 2469, Son of Shri Atar Singh, Resident of New Basti Shugar Mill, Muhiuddinpur, Meerut.
12. Sunhari Lal, Ticket No.2485, Son of Shri Banwari Lal, Resident of 172, Govindpuri Kakar Kheda, Meerut Cantt.
13. Devendra Pal Singh, Ticket No. 2768, Son of Shri Ratan Lal, Resident of 70/2 Kaseru Khedra New Mundi Meerut.



14. Dharmveer Singh, Ticket No. 2467, Son of Shri Nihal Singh, Resident of 1019 E.M.E. Colony Bai Pass, Saradhana Road, Meerut.
15. Kuldeep Kumar Ticket No. 1375, Son of Shri Kashmiri Lal, Resident of 29/7, Shastry Nagar, Meerut.
16. Jaipal Singh Saini, Ticket No. 2785, Son of Shri Dal Chandra Saini, Resident of Amhaida Aadipur Mawana Road, Post Sikhaida, Meerut.
17. Rakesh Kumar, Ticket No. 3401, Son of Shri Nand Lal Sharma, Resident of Village and Post Aranawali, Meerut.
18. Kishan Lal, Ticket No. 1513, Son of Shri Ram Prasad, Resident of Kaseru Kheda, Meerut.
19. Surendra Kumar, Ticket No. 3144, Son of Shri Kali Ram, Resident of Nateshwar Puram Makan No. 47, Kakar Kheda, Meerut Cantt.
20. Mahendra Singh, Ticket No. 3396, Son of Shri Braham Singh, Resident of 143 Chowk, Mohalla Kakar Kheda, Meerut.
21. Om Dutt, Ticket No. 3407, Son of Shri Satya Prakash, Resident of 153 Shastri Nagar, Colony, Kakar Kheda, Meerut.
22. Ram Kishan, Ticket No. 3400, Son of Shri Bhagwan Ram, Resident of Makan No. 68, Gihara Mohalla Kaseru Kheda, Meerut.
23. Ram Kishan, Ticket No. 2908, Son of Shri Pyarey Lal, Resident of Makan No. 120, Jamun, Mohalla Lal Kurti, Meerut Cantt.
24. Vijai Anand, Ticket No. 2968, Son of Shri Gori Shankar, Resident of 124 Sradhapuri, Kakar Kheda, Meerut.
25. Mohan Lal, Ticket No. 3117, Son of Shri Pyarey Lal, Resident of New Sainik Colony Kasampur Kakar Kheda, Meerut.
26. Narendra Kumar, Ticket No. 2898, Son of Shri Ram Saran, Resident of 399 Sadar Kabari Bazar, Meerut Cantt.
27. Sushil Kumar, Ticket No. 3064, Son of Shri Basant Lal, Resident of Maida Mohalla Lal Kurdi Meerut Cantt.
28. Richha Pal Singh, Ticket No. 2894, Son of Shri Dharam Pal Singh, Resident of Village Chhabadiya, Post Khas Sardhana, Meerut.
29. Vinod Kumar, Ticket No. 2913, Son of Shri Budh Prakash, Resident of 236, ShivLokpuri Kakar Khera, Meerut Cantt.

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30. Narendra Pal Singh, Ticket No. 2920, Son of Shri Jumman Singh, resident of Village Jatoli, Kakar Kheda, Meerut.
31. Devraj, Ticket No. 3483, Son of Shri Kandai Lal, Resident of 1/200, Ganganagar, Meerut.
32. E. Sychiey, Ticket No. 2407, Son of Shri L.S. Syolney, Resident of Meerut, 960, Civil Lines, Mission Camirand, Meerut.
33. Ram Bharose, Ticket No. 2262, Son of Shri Murlidhar, Resident of 61 Charaky Puri, Meerut Cantt.
34. Deepak Naggi, Ticket No. 2926, Son of Shri Tilakram Naggi, Resident of 217 Taki Mohalla Sat Bazar, Meerut Cantt.
35. Sadhu Ram Sharma, Ticket No. 1378, Son of Shri Khushiram, Resident of Galli No. 22, House No. 612, Kasampura, Meerut Cantt.

Applicants

By Advocate Shri A.I. Naqvi

Versus

1. Union of India through the Secretary, Ministry of Defence, Government of India, New Delhi.
2. The Director General of Electrical Mechanical Engineering (DGEME), T.G. Head Quarter, New Delhi.
3. The Chairman, Ordnance Factory Board, 10-A, Auckland Road, Calcutta-700002.
4. The Commandant 510, Army Base Workshop, Meerut Cantt., Meerut City.
5. 510 Army Base Workshop Meerut Cantt., Meerut thorough its Commandant.

Respondents

By Advocate Shri Saumitra Singh

ORDER

By K.S. Menon, Member (A)

This O.A. has been filed by Shri Shoraj Singh and 34 other applicants against the inaction of the respondents No.1 to 4 in not giving to the applicants parity of salary in the pay scale with Armourers, Electricians (MV), Machinist, Mill Right and Precision Grinders who were in the same scale of pay with the applicants till the recommendation of the 3rd Pay Commission. Being aggrieved by the inaction of the respondents they claimed the following reliefs in brief: -

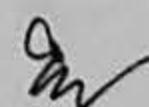
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- {i} Place the applicants in the same scale of pay as that of the above five Tradesman, without any discrimination;
- {ii} Quash the disparity in pay scale with the other five Tradesman created by respondent No.1 on the basis of the Expert Classification Committee Report and;
- {iii} Direct the respondents to pay salary by placing the applicants in the same scale of pay as the other five Tradesman i.e. Armourers, Electricians (MV), Machinist, Mill Right and Precision Grinders.

2. The applicants' case in brief is that they were working as Turners under respondent No.5 and till submission of 3rd Pay Commission's recommendations, ^{the} ~~they~~ pay scales were the same as that of the five other Tradesmen. Certain trades who were dissatisfied with the 3rd Pay Commissions' recommendations represented to the respondents. Consequently, the respondents set up an Expert Classification Committee (ECC) to review the whole case of pay parity. The Committee submitted its report on 18.12.1982 enforceable retrospectively w.e.f. 16.10.1981. Subsequently, another Committee i.e. Anomalies Committee was set up to revise the pay scales of different Trades. This Committee's report was operative from 11.05.1983. The Expert Classification Committee and the Anomalies Committee made a clear distinction in the pay scales of the other five Trades of Armourers, Electricians (MV), Machinist, Mill Right and Precision Grinders with that of the Turners. The pay scales of the other five Trades were ^{revised in} from Rs.260-400/- to Rs.330-480/-, while that of the Turners were retained at Rs.260-400/-. The pay scales of the five trades fixed at Rs.330-480/- would be applicable only if they were in service w.e.f. 16.10.1981 to 14.10.1984. Hence, both the Committees raised the pay scales of the above five trades but left out the Turners (which is the master trade) this the applicants feel is discriminatory, not permitted under the law and totally against departmental rules, especially when they were in service as on 16.10.1981. Being aggrieved they represented to the respondents with no tangible results, however, the respondents assured them that their grievances would be addressed by the 4th Pay Commission. The 4th Pay Commission in its report in 1986 raised the pay scale of all Trades upwards. In respect of the applicants it was raised from Rs.260-400 to Rs.950-1500/- while

in respect of the five trades it was raised from Rs.330-480/- to Rs.1200-1800/-. Hence, while the pay scale of all the Trades including the applicants were raised, the inter se disparity between the Turners and the five other Trades continued to exist. After implementation of the 4th Pay Commission recommendations, the applicants say they once again represented, again except for assurances, not much was done. Applicants submit that several representations were submitted and several rounds of talks with the respondents were held, over a period of 12 years but yet nothing was done by the respondents. This forced the applicants to send a legal notice dated 19.08.1998, this also elicited no response. The applicants have also relied on C.A.T. Kolkata Bench (T.A. No. 1361 of 1986) dated 30.10.1987 and T.A. No. 1248 of 1986 dated 25.06.1993 Judgments wherein it had been held that there is no justification for the respondents to make a distinction between the grades. A similar petition, they claim was allowed by C.A.T. Allahabad in O.A. No. 398 of 1999. In view of this, the applicants state that the respondents have acted without justification, and authority hence their act is discriminatory and violative of Article 311 of the Constitution. They have prayed that the discrimination should be rectified and they be restored to the same scale of pay as the other five tradesman mentioned in earlier paragraphs.

3. The learned counsel for the respondents Shri R.C. Shukla refutes the arguments of the applicants' counsel. Shri Shukla maintains that the O.A. is not maintainable as the parties arrayed as respondents viz. Ordnance Factories and the Corps of Electrical and Mechanical Engineers are two different departments under the Ministry of Defence and the jobs done by identical tradesman are totally different, hence the skill and capability of the tradesman employed are quite different and have no co-relation. Besides the staff under these two organizations are covered under different recruitment rules. Copies of the said recruitment rules have been annexed at C.A.-1 and C.A.-2. He, therefore, submits that the two citations of C.A.T. Kolkata and C.A.T. Allahabad, pertains to applicants who belong to Ordnance Factories while the



applicants in this case belong to the Corps of E.M.E. hence, these citations are irrelevant ^{and} ~~and should be rejected~~. The second point which he refutes is the submission of the applicants in paragraph No. 4 (R) and 4 (S) of the O.A. wherein they have submitted that they have exhausted all departmental remedies available for redressal of their grievances before approaching this Tribunal. Shri Shukla avers that no representation has ever been made by the applicants before the proper authorities. They sent only a legal notice through their Advocate on 19th August 1998 which was replied to by 510 Army Base Workshop on 09th September 1998 (Annexure CA-3). He maintains that the applicants' pay scales were fixed in terms of the IV Pay Commissions recommendations and the applicants never approached the authorities through proper channel at any stage with their grievances. The representation now made by the applicants before this Tribunal by this O.A. is also not covered by Rule 21 of the Administrative Tribunals Act, 1985.

4. The five tradesmen of Armourers, Electricians (MV), Machinist, Mill Right and Precision Grinders who were on the strength of the Workshop as skilled Tradesman on 16th October 1981 were fixed in the scale of Rs.330-480/- based on the recommendations of the ECC and on introduction of the revised Pay Rules 1986, their pay was revised to Rs.1200-1800. The applicants who were promoted as Skilled Tradesman after 16th October 1984 were fixed in the pay scale of Rs.260-400/- in accordance with the Government of India, Ministry of Defence letter dated 15th October 1984 (C.A.-4) under which the three grade structure came into existence and on introduction of the revised pay rules 1986 their pay was revised to Rs.950-1500. The fixation of pay scale and its subsequent revision was in accordance with the recommendations of the ECC, Anomalies Committee and the IV Pay Commissions' recommendations as approved by the Government of India. Besides the respondents reiterate that no representation against these pay scale fixations were ever made by the applicants.

5. The respondents vide their D.O. Pt. I Order dated 17.07.1998 published information of all the effected employees based on the report of the E.C.C. and invited objections from aggrieved employees. Instead of making a representation the applicants sent a legal notice dated 19.08.1998 (Annexure CA-3) asking the respondents to raise their scale of pay at par with the other five trades, which the respondent No.4 replied vide letter dated 09.09.1998 (Annexure CA-3). Shri Shukla contends that all actions taken by the respondents are in accordance with Government Policies and since it leaves no room for judicial intervention, the O.A. deserves to be dismissed.

6. Heard, the Counsel for the parties and perused the material available on record.

7. The applicants have arrayed the DGEME, New Delhi-respondent No.2 and the Chairman, Ordnance Factory Board, Kolkata as respondent No.3, besides they have cited Judgments of C.A.T., Kolkata and Allahabad in cases pertaining to the Ordnance Factories with which they are not at all concerned and relying on these Judgments is not tenable. Further in paragraph No. 4 (A) and (B) of the O.A., they maintain that they are Turners in 510 Army Base Workshop, Meerut Cantt., at the same time, they state they are governed by the Indian Ordnance Factories Recruitment and Condition of Service Class II Personnel. It is evident they are thoroughly confused about their own service and the answering respondents. Thus the relief prayed requesting all the respondents to place them in the same scale as the other five Tradesmen is misplaced and is hence rejected.

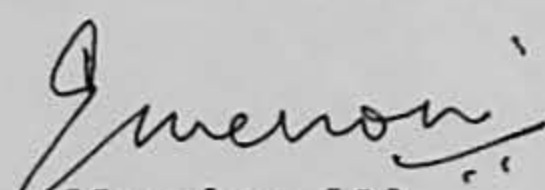
8. It is evident that prior to the 3rd Pay Commission recommendations that the ^{pay scale in} ~~trade~~ of the applicants were on par with the other 5 Tradesman viz. Armourers, Electricians (MV), Machinist, Mill Right and Precision Grinders. Subsequently, the ECC and Anomalies Committee which were set up to review the various cadres upgraded the scale of pay of the other five tradesmen with reference to the trade of the applicants (Turners).

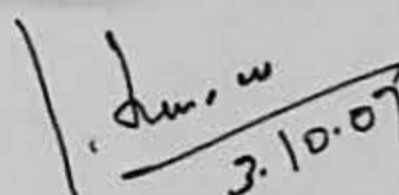
This was carried forward by the IVth Pay Commission which while they upgraded the scales of various trades maintained the distinction as recommended by the ECC and the Anomalies Committee as far as Turners was concerned. The actions of the respondents are therefore clearly in line with the policy decision of the Government and is applicable to all equally and hence no discrimination is established.

9. The applicants' contention that they had represented against this discrimination to the respondents is vehemently denied by the respondents who state that no such representations were made by the applicants. They maintain that the applicants have only sent a legal notice and filed this O.A. but no representations were sent to the respondents and have sought dismissal of the O.A. on this ground alone. The applicants on their part have annexed typed copies of their so called representations at Annexure A-2 which is undated and there is no proof of it having been served on ²¹by the respondents. We feel that the question of the applicants having submitted any representation is not free from doubt.

10. In view of the above, we do not see any merit in the O.A. and are of the view that it should be dismissed.

11. The O.A. is accordingly dismissed. No order as to costs.


Member (A)


Vice Chairman

/M.M./