

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD**

**Original Application No. 464 of 1999**

Allahabad this the 24<sup>th</sup> day of Jan, 2005

**Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. A.K. Bhatnagar, Member (J)**

- |    |   |                                   |
|----|---|-----------------------------------|
| 1. | Ramayan Shah Son of Shri Baij Nath Shah             | }                                 |
| 2. | Devendra Singh Son of Shri Hari Singh               | }                                 |
| 3. | Lal Bahadur Rai Son of Shri Ram Iqbal Rai           | }                                 |
| 4. | Narain Prasad Sharma Son of Late Shri C.D. Sharma   | } All serving in                  |
| 5. | Jeebachh Chaudhary Son of Shri Rama Kant Chaudhary. | } Ordnance Depot, Fort, Allahabad |
| 6. | Baij Nath Son of Shri Dagan Baitha                  | } as Mazdoors.                    |
| 7. | Smt.Pushpa Devi Widow of R.P. Mahto                 | }                                 |
| 8. | Sudarshan Ram Son of Shri Sati Ram Chauhan          | }                                 |

**Applicants**

**By Advocate Shri R.R. Tripathi**

**Versus**

1. The Union of India through the Secretary to Government of India, Ministry of Defence, DHQ PO, New Delhi-110011.
2. Major General Army Ordnance Corps Headquarters Central Command, Lucknow(U.P.).
3. The Commandant, Ordnance Depot, Fort, Allahabad (U.P.)

**Respondents**

**By Advocate Shri Satish Mandhyan**

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## ORDER

**By Hon'ble Mr.A.K. Bhatnagar, Member(J)**

By this O.A. applicant has prayed for following reliefs:-

- a) <sup>To</sup> Quash the impugned order rendered by respondent no.3 suddenly, arbitrarily, illegally and without any relevant valid authority;
- b) <sup>Is</sup> Issue suitable orders to the Respondent no.3 to restore the Basic pay of the applicants which were ranging from Rs.1050/- to Rs.1130/- per month from the dates as mentioned in para 4(1) above, with all the consequential benefits and pay the arrears of dues on account of the said reductions in pay and allowances;
- c) <sup>Is</sup> Also issue directions to the respondents to grant any other reliefs, which may be deemed proper by the Hon'ble Tribunal."

2. The brief facts giving rise to this O.A., as per the applicants, are that the applicants were recruited as Mazdoor in 8 Mountain Division Ordnance Unit, C/o 99 APO i.e. a Field Unit of the Indian Army in the Army Ordnance Corps around 28 years back. They have come on transfer to Ordnance Depot Fort, Allahabad, which is a sister unit of the Mountain Division Ordnance Unit C/o 99 APO. The applicants were posted only because the tenure for the field unit is for a certain short duration i.e. for 3 years maximum. The applicants in this case have served for a period more than 20 to 23 years and then transferred from field to peace by the respondents. The applicants were required to fill up a form prescribed for getting the choice posting. Since there was no specific form available with the Field Unit strictly applicable to applicants' case, the form prescribed for mutual/compassionate ground posting cases was used. However, the applicants had not given any undertaking that they would be accepting downgrading/reversion so far as the question of their scale was concerned.



.....pg.3/-

3. The grievance of the applicants is that the respondents, particularly respondent no.3 i.e. Commandant, Ordnance Depot, Fort, Allahabad vide his illegal and arbitrary action, brought down the basic pay of all the applicants, which was ranging from Rs.1050/- to Rs.1130/- to the range of Rs.940/- to Rs.954/- in lower grade suddenly without any notice, thereby putting them to a great financial loss. Aggrieved by the action of the respondents, the applicants have submitted various applications to them but respondents have done nothing positive except verbal assurance, hence they have filed this O.A.

4. Learned counsel for the applicants submitted that the applicants cannot be deprived of their legal entitlements provided under the rules. He further submitted that the applicants are suffering from a heavy financial loss owing to their reduction of pay from higher scale of pay to the lower one without any authority to that effect. Learned counsel further contended that no undertaking was obtained from the applicants while their cases for transfer from field to peace after abnormally prolonged services in the field, ranging from period 20 to 23 years were completed. As per the applicants, no notice was given to them for downgrading from higher to lower scale of pay and to effect recoveries. Therefore, the orders passed by the respondents are arbitrary and illegal, so the respondents are entitled for the relief sought for.

5. Resisting the claim of the applicants, the respondents have filed the counter affidavit, followed by rejoinder filed by the applicants' counsel. Counsel for the parties have also exchanged their pleadings in the form of supplementary counter affidavit and supplementary rejoinder affidavit.

6. Learned counsel for the respondents inviting <sup>my</sup> attention on paragraph no.8 and 9 of the counter affidavit submitted that since this



depot was not dealing with ammunition, the applicants' posts as Mazdoor carrying pay scale of Rs.800-1150/- were informed in writing that they are not dealing with ammunition so their pay accordingly is being fixed at Rs.940/- from the date of their TOS vide letters dated 02.11.1995(annexureCA-6) and 14.12.1995(annexureCA-7). The applicants have been absorbed in the pay scale of Rs.750-940/- w.e.f. their dates of TOS and since the substantive pay previously drawn was more than the maximum of the scale in which they were absorbed, their pay was fixed at the maximum at Rs.940/-. It is further submitted that after completion of one year of service at the maximum of the pay scale admissible, the applicants have been granted in Situ promotion in the pay scale of Rs.800-1150/- in terms of Career Advancement Scheme for Group 'C' and 'D' employees introduced vide Office Memorandum dated 13.09.1991. It is further submitted that the applicants who were in the pay scale of Rs.800-1150/- for performing ammunition duty, were duly informed through their Group Officers after joining O.D. Fort on compassionate grounds that they were brought down to the scale of Rs.750-940/-. Therefore, the plea of the applicants that their scale was lowered without any notice is baseless.

7. We have heard the learned counsel for the parties and perused the record.

8. Admittedly, the applicants had been working as Mazdoor in the scale ranging from Rs.1050 to 1130/-. We have gone through paragraph no.3(c) of the rejoinder filed by the applicant, in which it is specifically stated that if the applicants were transferred to a lower grade or scale of pay, a willingness certificate in duplicate accepting the same could have been obtained from them and a copy of that certificate will be forwarded to the Army Headquarters for their records and the next could have been placed in the applicants' service book. Since the option of the applicants were not obtained hence to get them reverted to lower grade after a

Lapse of over 3 to 3 ½ years, is arbitrary and is also against the existing orders as contained in paragraph 8 of the Army Headquarters letter dated 30.06.93 (annexed as annexureCA-4 to the counter affidavit). We have also gone through annexureCA-4 at page 32 of the counter affidavit, which reads as under:-

“Those individuals who have been transferred in lower trade or scale of pay will be required to submit a willingness certificate in duplicate accepting the same. One copy should be placed in the service book and the other be invariably forwarded to this HQ. If refused, an unwillingness certificate may be sent for cancellation of posting order.”

9. The contention of the applicants in their affidavit that had the applicants been either made aware of their postings to lower grade or communicated by the respondents, which was of course mandatory to be conveyed to them, then the applicants could have denied to accept the same. We have nowhere found any consent of posting on lower grade by the applicants, as provided in annexureC.A.-4.

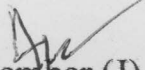
10. In view of our aforesaid discussion and after considering the rival contention of the parties, we are of the view that transfer of the applicants to the post of Mazdoor in lower grade was in contravention of the Army Headquarters' letter dated 30.06.93(annexureCA-4), as no willingness certificate was obtained from the applicants. Accordingly, the applicants are entitled for their last pay drawn at the previous posting till they have been granted in Situ promotion in the pay scale of Rs.800-1150/- in terms of Career Advancement Scheme.

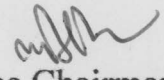
11. With the above observations, the O.A. is allowed. The respondents are directed to restore the last pay drawn by the applicants at their previous posting till they have been granted in Situ promotion in the pay scale of Rs.800-1150/- in terms of Career Advancement .....

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Scheme. The respondents are further directed to pay the arrears of dues on account of the said reductions in pay and allowances. This exercise shall be completed within a period of three months. No order as to cost.

  
Member (J)

  
Vice Chairman

/M.M/