

**Reserved**

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD**

This the 2 day of 7, 2009.

**HON'BLE MR. A. K. GAUR, MEMBER- J**  
**HON'BLE MRS. MANJULIKA GAUTAM MEMBER-A**

**ORIGINAL APPLICATION NO. 1140 OF 2000**

Puttu Lal S/o Durga, Overseer, General Bond Store R/o Qr. No.  
29/1, R. Type O.C.F. Estate Shahjahanpur

.....Applicant

**VE R S U S**

1. U.O.I. through Secretary (M.O.D.) Productions. New Delhi.
2. The General Manager, O.C.F. Shahjahanpur.
3. The General Manager O.F. Khamaria

.....Respondents

Present for the Applicant:                      Sri K. C. Saxena  
Present for the Respondents:                      Sri R. K. Srivastava

**ORDER**

**BY HON'BLE MR. A.K. GAUR, Member (J).**

By means of the present Original Application, the applicant is aggrieved with the order of the General Manager O.C.F., Shahjahanpur dated 17.05.2000 refusing to give benefit of judgment and order dated 22.09.1999 passed in writ petition no. 3378 of 1996 passed by the Delhi High Court allowing the salary at higher rate to persons similarly situated like the applicant. The applicant has claimed equal pay for equal work.

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2. The applicant was appointed as Tailor 'D' in O.C.F. Shahjahanpur, on 09.07.1962, and subsequently promoted as Tailor 'C' in the grade of Rs. 85-2-95-3-110, the applicant was reverted as Tailor 'D' on 01.04.1964 but again promoted as Tailor 'C' on 12.02.1965 and made Quasi-Permanent. subsequently on 01.11.1967, Due to Chinese Aggression in the year 1962, heavy recruitment of Tailors were made, but subsequently after the cessation of hostilities and falling of production level, due to want of indent from the Army and other sources affecting the Shahjahanpur O.C.F. also, a large number of tailors became surplus. As per general notice dated 18.08.1966, the tailors were informed that they were going to be declared surplus and retrenchment could be resorted to. The tailors were advised to opt for downgrading of their status to labour 'B' on a lower scale of pay, for being accommodated in other Ordinance Factories after being trained in Engineering Trades, on their passing the trade tests. The applicant protested against his downgrading and transfer to other factory vide letter dated 02.09.1966. The applicant was given another notice by O.P. No. 2 vide letter dated 01.11.1966 that either he should accept the offer of downgrading latest by 06.12.1966, or face ~~of~~ music of termination. The applicant alongwith several other tailors were reverted as Labour 'B' on a reduced pay and all of them were transferred to Ordinance Factory Khamaria, Jabalpur. This transfer of the applicant is clearly in violation of

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settled principle of law. That no employee could be transferred to a post carrying lower pay scale than that, on which he was originally recruited. But having no option to the applicant he had to accept this reduction under compulsion of threat of being thrown out of job.

4. In December 1967 the applicant was promoted to the post of Weaver 'D' in pay scale of Rs. 75/-. During the stay at Khamaria the applicant and his wife made several representations for reposting of the applicant to O.C.F. Shahjahanpur, but all representation were rejected. Subsequently the applicant was again transferred to O.C.F. Shahjahanpur, after being reverted as labour 'B' on lower scale of pay, where he joined on 26.12.1978. While being posted at Ordinance Factory Khamaria Sri R. C. Rastogi and 65 others including the applicant filed an application under Section 33 (c) (2) of the Industrial Disputes Act 1947 for the determination of the pay due to them, C.G.I.T. Jabalpur allowed the case on 15.11.1980. The Tribunal clearly held that the applicant could not be reverted from the post of tailor 'C' even after their consent and their pay could not be reduced by O.P. No. 3, from that they were getting as tailor 'C', and after refixing the pay, the Tribunal directed that the option of the employee should be obtained and the salaries be fixed as per 3<sup>rd</sup> pay commission

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report. The true copy of the order passed by the Labour Court has been filed as Annexure-7 to the O.A.

5. The benefit of the judgment and order given by the Labour Court was not given to the applicant, probably on the ground of transfer to Shahjahanpur on 26.12.1978. The applicant continued to draw the pay of labour 'B' at Shahjahanpur. The Opposite party no. 2 demanded representations from all those employees who had been transferred from out side earlier after reduction of their status from Tailor 'C' to Labour 'B' for correction of their pay, the applicant also submitted his representation on 28.03.1998 but no heed was paid by the Respondents.

6. That a batch of 34 employees, similarly situated, as the applicant ~~is~~ moved the Hon'ble High Court at New Delhi being workers of O.C.F. Shahjahanpur on the basis of an order of Hon'ble Supreme Court passed earlier in the case of Shiv Charan Lal Vs. Union of India and the Hon'ble High Court of Delhi allowed the said writ petition giving benefit of the order of the Apex Court in the Case of Shiv Charan Lal (Supra). The true copy of the judgment and order dated 22.09.1999 has been filed **as Annexure-8 to the O.A..** The applicant after coming to know of the said judgment dated 29.02.2000, also moved the O.P. No. 2 to give him the same benefit as was allowed by the Hon'ble

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High Court of Delhi to his other colleagues situated similarly vide application dated 06.05.2000. The said representation of the applicant was rejected by the Respondent No.2 by means of order dated 17.05.2000, A True copy of the said order is being annexed herewith and marked as Annexure-1.

7. Denying the pleas taken in the Original Application, Respondents filed their reply and submitted, in para 9 of the counter reply which reads:-

*"9. That in the meantime the petitioner Shri Puttoo Lal represented his case requesting for grant of the same benefit as being given to the petitioners as per Delhi High Court order. His request was regretted vide letter dated 17.05.2000 as the above orders were applicable to the petitioners only. Moreover, it is also relevant to point out here that as per Central Government Industrial Tribunal, Jabalpur order dated 15.11.1980 the benefit of the pay protection has already been given to Shri Puttoo Lal. Hence the question for granting same relief which has already been given to him does not arise."*

8. It is also submitted on behalf of the respondents that the O.A. is barred by limitation and O.A. deserves to be dismissed on the ground of delay and laches.

9. In the Rejoinder reply filed by the applicant, it is submitted that the deponent who has filed Counter Affidavit has not filed any authority from the respondents in writing, it is the

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requirement of law, the deponent not being in service at the time to which the facts relates, the counter affidavit filed was itself not admissible on record. It is also submitted by the applicant that benefit of decision of Delhi High Court, should have been given to all similarly situated employees, but the respondents have refused to grant the similar benefit to the applicant.

10. We have gone through the pleadings of the parties and the record of the case. A perusal of the judgment and order rendered by Delhi High Court dated 22.09.1999, it is quite evident that the applicant has sought mandamus requiring the respondents to pay equal pay for equal work Under Article 14, 16 and 39 (D) of the Constitution of India. Reliance has been placed on the decision of Hon'ble Supreme Court rendered in Shiv Charan Lal and others Vs. Union of India and others. It is seen from the record that the Tailor 'C' employees were declared surplus, and transferred to other units of Ordinance Factory Chandauli, Moradabad, Deharadoon, Shahjahanpur as labour grade 'B' vide order dated 09.01.1967. After 1 year they were promoted to suitable post. The grievance of the applicant is that the transfer and pay of the applicant was not protected and applicant is entitled to get benefit of decision rendered by Hon'ble Delhi High court in the case of **Shri Anwar Husain and others Vs. Union of India and others and also the**

**decision of the Apex Court rendered in Shiv Charan**

**Lal's case.** The sole grievance of the applicant is that he being similarly situated employees, ~~like~~ the applicant in Shiv Charan Lal's case, before the Hon'ble Supreme Court, and also performed the similar nature of work, but the Respondent have arbitrarily declined to give the benefit of the aforesaid judgment of Hon'ble Supreme Court and High Court with ulterior motives. The applicant's case is squarely covered by the decision of the of Hon'ble Supreme Court in the case of Shiv Charan Lal (Supra) and in the case of Anwar Husain decided by Delhi High Court. It is also seen from the record that the scheme of Tailor 'C' work man was adjudicated and settled by the order dated 15.11.1980, of Labour Court Khamariya, <sup>✓</sup> Which was accepted by the Respondents and implemented with regard to the employees of other units of Ordinance Factories, and the same got finality, <sup>✓</sup> in view of judgment rendered in the case of Shiv Charan Lal and others decided by Supreme Court. It is not disputed that the applicant belongs to class of Ex-Tailor (c) being similarly situated person as the applicant in the case of Shiv Charan Lal and others Vs. Union of India and others (Supra), and in our considered view, the case of the applicant is squarely covered by the decision of the Apex Court rendered in the case of Shiv Charan Lal (Supra).

11. We have also carefully gone through the judgment rendered by Hon'ble Supreme Court in the case reported in

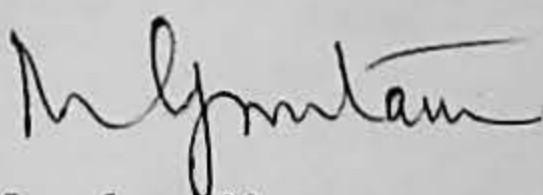
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***JT 1997 (7) SC 58, (Constitutional Bench Judgment) in K. C. Sharma and others Vs. Union of India*** and we are convinced that the applicant is exactly similar circumstanced employee and he must be granted the benefit of the aforesaid earlier judgment of Hon'ble Supreme Court and Delhi High Court. In the instant case there is not much delay in approaching the Court. The delay if any in filing the O.A. is condoned. In view of ***1992 SCC (Labour & Service) 80 & 2002 (1) SLJ 605 (C) in the case of G.C. Gosh and others Vs. Union of India and others.***

12. In view of our aforesaid observations the O.A. is allowed. The order dated 17.05.2000 (Annexure A-1) is hereby quashed and set aside, Respondents are directed to grant the benefits of the judgment and order of the Hon'ble Apex Court rendered in the case of Shiv Charan Lal & Hon'ble Delhi High Court in the case of Shri Anwar Husain and others Vs. Union of India and others, with all consequential benefits, within a period of 6 months from the date of receipt of the copy of the order.

O.A. stands Allowed, subject to the above observations/directions.

  
Member(A)

  
Member(J)

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