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Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 4th DAY OF April, 2011)

Hon'ble Dr.K.B.S. Rajan, Member (J)

Hon'ble Mr. D.C.Lakha, Member (A)

Original Application No.133 of 2002

(U/s 19, Administrative Tribunal Act, 1985)

Hasmat Ullah, aged about 58 years,
S/o Late Shri Natthu, R/o 129/1,
Vijay Nagar, Kanpur.

..... Applicant

Present for Applicant : Shri Rakesh Verma, Advocate.

Versus

1. Union of India, through the Secretary, Ministry of Defence, New Delhi.
2. The General Manager, Ordnance Equipment Factory, Kanpur.
3. The Incharge, Ordnance Cell, Ordnance Equipment Factory, Kanpur.
4. Shri Kamta Prasad, T. No. 1394/T-2, working as Tailor High Skilled Grade II, Ordnance Equipment Factory, Kanpur.

..... Respondents

Present for Respondents : Shri Himanshu Singh, Advocate



ORDER

(Delivered by Hon. Dr. K. B. S. Rajan, Member-J)

Certain claims made years ago get neutralized either by the claim being met with by the respondents or the parity sought for is nullified by withdrawing the benefit granted to others which the aggrieved would claim. This case belongs to the latter category.

2. Brief facts: The applicant as well as respondent No. 4 are working as Tailor Highly Skilled Grade II in the pay scale of Rs. 4000 – 6000 (pre-revised). For certain reasons the applicant was kept out of service and through the intervention of the Tribunal in OA No. 214 of 1986 with subsequent OA No. 291 of 1999, the applicant was reinstated. In that process, however, the intervening period from 03-05-1990 till 15-05-2000 was to be regularized. While the same was treated as service, no wages were payable to the applicant. The applicant had filed writ petition No. 44155 of 2000 in respect of payment of pay and allowances, which, however, was dismissed for non prosecution and the applicant has filed restoration application which is yet to be considered by the High court.

3. Meanwhile, on the basis of junior drawing higher pay and allowances, this application is filed by the applicant claiming the following relief(s):-

- (i) *To issue a writ, order or direction in the nature of Certiorari quashing impugned order dated 28.9.2001 to the extent of denying benefits of intervening period in respect of pay and promotion at par with the junior (Annexure-A-I).*
- (ii) *To issue a writ, order or direction in the nature of Mandamus after holding the intervening period from*

3.5.1990 till 15.5.2000 as the period spent on duty as Tailor Skilled, directing the respondent No. 2 to fix pay of the petitioner as Tailor Skilled in the pay scale of Rs. 950-1500 as on 16.5.2000 after granting him annual increments for the intervening period and then to place the petitioner in the revised pay scale of Rs. 3050-4590 on the above date and also to accord promotion to the petitioner as Tailor Highly Skilled Grade II in the pay scale of Rs. 4000-6000 fixing his seniority and pay in that grade at par with the respondent No. 4 in accordance with the rules within a period as may be stipulated by this Hon'ble Tribunal.

- (iii) To issue a writ, order or direction in the nature of Mandamus directing the respondent No. 2 to grant the petitioner the benefit of financial upgradation placing him in the pay scale of Rs. 4500-7000 and Rs. 5000-8000 under the Assured Career Progression Scheme fixing his pay at par with the respondent No. 4.

4. The respondents have stated as under:-

"the benefit of pay scale of Rs. 4500-7000 granted earlier to HS-II employees under ACP-II was subsequently withdrawn by OFB, Kolkata vide letter No. PA-2631/A/CCC dated 17.06.2002 (Copy enclosed as Annexure CA-1 to this counter Affidavit). Accordingly, the respondent No. 4 who was given the benefit of pay scale of Rs. 4500-7000 has also now been placed in the pay scale of Rs. 4000-6000. So far as benefit of pay scale of Rs. 5000-8000 is concerned, it was allowed in respect of HS-I employees only in view of clarification received from PC of A (Fys), Kolkata vide letter No. Pay/Tech-II/04 dated 06.02.2002 (Copy enclosed as Annexure CA-2 to this Counter Affidavit). Subsequently, it was also disallowed vide OFB, Kolkata letter dated 17.6.2002 referred to above. Accordingly, HS-I employees who were allowed the pay scale of Rs. 5000-8000 have also been placed now in the similar pay scale of Rs. 4000-6000 which is being given to HS-II employees at present."

5. The OFB Kolkata letter dated 06-02-2002 is as under:-

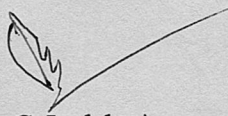
"After CDS(RP) Rules 1996 pay scale of H.S.I and HS II have been merged in to a single pay scale of Rs. 4000-6000. As for Master Craftsman is not to be treated as the Mechanical pay scale for the purpose of grant of financial upgradation under ACP Scheme. Therefore, 2nd upgradation under A.C.P. Scheme for HS I only would be granted in the pay scale of Rs. 5000-8000. But 2nd for HS II should be kept in abeyance till further order as proposed by OFB vide order No. 2631/A/CCC dt. 4.9.2001.

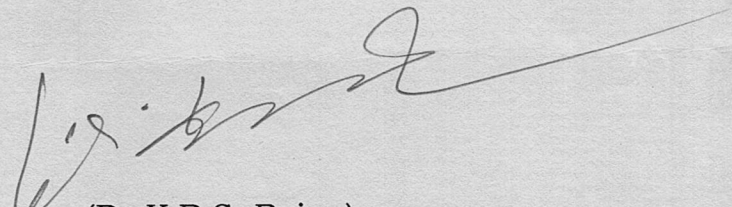
If pay scale of Rs. 4500-7000 for H.S.I which is now in the final stage with the Min. of Def. is accepted then 2nd upgradation for HS II and skilled Worker would be in the pay scale of Rs. 4500-7000. On the contrary, if the proposal does not eventually go through in that case only. 2nd upgradation in respect of H.S.II and skilled worker would be granted in the pay scale of Rs. 5000-8000.

In view of the above, pay fixation cases or upgradation under ACP Scheme in respect of H.S. I only in the pay scale of Rs. 5000-8000 may be cleared now. Pending further order."

6. With the above development, there appears no difference in the pay scale of the applicant and the private respondent. As such, the applicant's grievance no longer subsists.

7. In view of the above, the OA is disposed of with no further orders. No costs.


(D.C. Lakha)
Member (A)


(Dr. K.B.S. Rajan)
Member (J)

Shashi