OANo. 1470/06

शुल्क प्रतिलिपि

(RESERVED)

CENTRAL ADMINISTRATIVE TRIBUNAL, PATNA BENCH
CIRCUIT SITTING AT RANCHI

HON'BLE MR. A.K. GAUR , MEMBER (J).
HON'BLE MR. S.N. SHUKLA, MEMBER (A)

ALLAHABAD this the 7 day of May. 2009.

Original Application Number. 1471 OF 2006

1. Ameer Ahmad Anssari, Son of Shri Abdu Majeed Ansari, T.No. 2637/T-1, P.N. 103914, House No. 145, Sujat Ganj, C.O.D., Kanpur.

2. Shatrughan Singh Yadav, Son of Shri Vasudev Singh, T. No. 88/T-1, P.N. 103378, House No. 68-E/4, Dabauli Ratan Lal Nagar, District-Kanpur.

3. Vishnath, Son of Shri Lal Ram, T. No. 555/T-1, P. No. 105240, House No. A-716, Barra-6, Kanpur.

4. Pramod Kumar Yadav, Son of Shri Ram Prakash Yadav, T. No. 147/T-1, Old P.No. 105240, R/o Village- Khitaura, P.O. Pill Khana, Etawah,

5. Arun Kumar Mishra, Son of Shri Shiv Kumar Mishra, T. No. 40/T-1, P. No. 103370, House No. 39/8, Naubasta, Hameerpur Road, Kanpur.

6. Rajendra Kumar, son of late Genda Lal, H. No. 40/T-1, P. No. 103370, House No. 39, Naubasta, Kanpur.

7. S.N. Tiwari, Son of Shri Babu Ram Tiwari, T. No. 559/T-1, P. No. 103555, House No. 19, village- Mirzapur P.O. Kalyanpur, Kanpur.

8. Anil Kumar, S/o Shri B.B.L Srivastava, T. No. 2312/T-2, P. No. 105114, House No. T-31, Medical College Campus, Kanpur.

9. Iqbal Shankar, son of late Gurdyal, T. No. 2647/T-1, P. No. 103922, House No. 1/31, Shuklaganj, North East P.O. Gangaghat, Unnao.

10. Abdul Shahid Beg, Son of Shri Abdul Samad, T. No. 052270, W.D.C/Y&E, House No. 101/10, Juhi Safed Colony, Kanpur.

11. Arun Kumar Mishra, Son of R.L. Mishra, T. No. 923/T-1, P. No. 105117, House No. 10/167, Anand Nagar, Shuklaganj, Unnao.

..... Applicants

V E R S U S

1. Union of India through Secretary, Ministry of Defence, Government of India, New Delhi.

2. Addl. Director, Ministry of Defence, government of India, Ordnance Equipment Factory, Group of Factories, Sarvoday Nagar, Kanpur.

3. General Manager, Ordnance Equipment Factory, Civil Lines, Kanpur.

..... Respondents

With

Original Application Number. 1470 OF 2006

1. Abrarul Haq, son of Sri Islamul Haq, T. No. 271/T-3, P.N. No. 104993, House No. 132/497, Babupurasa, Post Office- Munship Parasad, Kanpur-23.

2. Ram Saran Tripathi, son of Shri R.K. Tripathi, T.N. No. 594/T-1, P.N. No.103594, R/o Village Chinta Khera, P.O. Daulatpur, District- Raibareilly.

3. Amar Singh, son of Shri Parkh Ram Singh, T. N. No. 2638/T-1, P.N. No. 103915, House No. I-853, Vishwa Bank Colony, Barra, District- Kanpur.

4. Rabinson William, son of Late Shree Villiam, T.N. No. 1888/T-I, P.N. No. 103827, House No. 3/3 Type-I, G.T. Road, Defence Colony, District Kanpur Nagar.

5. Satish Kumar Dixit, Son of Shri S.N. Dixit, T. N. No. 2639/T-I, P.N. No. 103916, House No. 221/2, Juhi Lal Colony, District- Kanpur Nagar.

6. Laxmi Narayan, son of Late Raji Bhan, T.N. No. 2640/T-I, P.No. 103086, House No. 39/70 Govt. Unnyan Basti, G.T. Road Colony, Kalyanpur, P.O. Indira Nagar, Kanpur.

7. Shaym Narayan Shukla, son of Shri R.C. Shukla, T.N. No. 2646/T-1, P.N. No. 103921, House No. 118/278, Kaushalpuri Hanuman Park, District- Kanpur Nagar.

8. Quadir Ali Siddiqui, son of Shri Shesh Ali, T.N. No. 210/T-3, P.N. No. 103369, House No. 396/7, Shastri Nagar, District- Kanpur Nagar.

9. Ajay Kumar, Son of Late Girdhari Lal, T.N. No. 2645/T-1, P.N. No. 103920, House No. 9/43, Pili Building IDD Garh, District- Kanpur.

10. Mohd. Masood Khan, Son of Shri M.A. Khan, T. No. 2641/T-1, P.N. No. 103917, House No. 41, Purab Kheria, Civil Lines, District- Unnao.

..... Applicants

V E R S U S

1. Union of India through Secretary, Ministry of Defence, Government of India, New Delhi.

2. Addl. Director, Ministry of Defence, government of India, Ordnance Equipment Factory, Group of Factories, Sarvoday Nagar, Kanpur.

3. General Manager, Ordnance Equipment Factory, Civil Lines, Kanpur.

..... Respondents

With

Original Application Number. 1496 OF 2006

1. Raju Ahmad, son of Shri Bashir Ahmad, T. No. 2642/T-1, P.N. No. 103048, House No. 20/50, Kanpur.

2. Sanjay Srivastava, son of Shri M.L. Srivastava, T.N. No. 1914/T-1, P.N. No. 105765, House No. 106, Naubasta, District- Kanpur.

3. Ved Prakash Agnihotri, son of Shri S.K. Agnihotri, T.N. No. 960/T-1, P.N. No. 105810, House No. 449, Fazalganj, District- Kanpur.

4. Dashrath Lal, son of late Chotey Lal, T. No. 2644/T-I, P. N. No. 108919, House No. 188, Lal Kurti Bazar, District- Kanpur Nagar.

5. Lal Ji, Son of Shri Ram Chandra, T.N. No. 193/Q.C., P.N. No. 103558, House No. 17-A, Jagai Parasa, Lal Banglow, District- Kanpur Nagar.

.....Applicants.

V E R S U S

1. Union of India through Secretary, Ministry of Defence, Government of India, New Delhi.

2. Addl. Director, Ministry of Defence, government of India, Ordnance Equipment Factory, Group of Factories, Sarvoday Nagar, Kanpur.

3. General Manager, Ordnance Equipment Factory, Civil Lines, Kanpur.

..... Respondents

With

Original Application Number. 1498 OF 2006

1. Vimal Kishore Tiwari, Son of Shri U.S. Tiwari, T. No. 535/T-3, OLD, House No. 202, Manas Vihar, J.K. Colony, Kanpur.

2. Rajendra Kumar Shukla, Son of Shri R.C. Shukla, T. No. 918/T-2, P. No. 105769, House No. 121/6, Juhi Lal Colony, Kanpur, at present residing at 127/869, W.I, Shaket Nagar, Kanpur- 14.

3. Shiv Bahadur Singh, Son of Late Ganesh Singh, T. No. 197/Q.C. P. No. 102925, R/o Village- Pindokha, P.O. Dewar Kalan, Unnao.

4. Manoj Kumar Shukla, Son of Shri R.N. Shukla, T. No. 1991/T-2, OLD P. No. 105811 (50/O.C), New House No. 818, Dhakna Purwa Colony, T.P. Nagar, Kanpur.

5. Hemant Bhaskar, son of Late Laxman Singh, T.N. No. 48/Q.C OLD (567/T-1), New P. No. 103557, House No. 269/8, New Labour Colony, Babupurwa, Kanpur.

6. Aman Kumar Saxena, son of Shri R.C. Saxena, T.No. 2221/T-2, P. No. 104644, House No. 120/453, Lajpat Nagar, Kanpur.

7. Sandeep Kumar Srivastava, Son of Shri R.C. Srivastava, T. No. 33/T.C.S, P. No. 103826, House No. 107/49, Jawahar Nagar, Kanpur.

8. Param Jeet Singh, Son of Sri S. Narindra Singh, P. No. 052255/LDC, House No. 193/7, Shastri Nagar, Kanpur.

9. Ali Hasan, son of Shri Ali Razzak, T. No. 1883/T-1, P. No. 103823, House No. 6/23, Beguam Purwa colony, Kanpur.

10. Radha Govind Mishra, Son of Late Prem Sagar, T. No. 1329/T-1, P. No. 103687, House No. 3/14, Dhakna Purwa Colony, T.P. Nagar, Kanpur.

11. Samad Kumar Srivastava, Son of Late K.L. Srivastava, T. No. 1435/T-2, P. No. 104992, House No. 49/5, Purwa Colony, Kidwai Nagar, Kanpur.

.....Applicants

VERSUS

1. Union of India through Secretary, Ministry of Defence, Government of India, New Delhi.

2. Addl. Director, Ministry of Defence, government of India, Ordnance Equipment Factory, Group of Factories, Sarvoday Nagar, Kanpur.

3. General Manager, Ordnance Equipment Factory, Civil Lines, Kanpur.

..... Respondents

Advocate for the applicant/s: Sri Satish Mandhyan
Advocate for the Respondents: Sri V.K. Pandey
Sri R.K. Srivastava (Only in OA No.1496/06)

ORDER

Delivered by Hon'ble Mr. A.K. Gaur, J.M.

All the four O.A Nos. 1471/06, 1470/06, 1496/06 and 1498/06 are being decided by the common judgment as the controversy involved in all the cases are similar and identical. The case of Sri A.A. Anssari- O.A No. 1471/06 is taken as leading case.

2. By means of this O.A filed under section 19 of Administrative Tribunals Act, 1985, the applicants have prayed for following main relief(s): -

" (a). to issue a writ, order or direction in the nature of certiorari calling the record of the case and quashing the order impunged dated 31.07.2004 (Annexure- 6 with Comp. No. 1) passed by the respondent authorities.

(b). To issue a writ order or direction in the nature of mandamus commanding the respondent authorities for grant of revised up-graded pay scale of Rs. 260-400 and other consequential benefits as admissible to skilled grade tailors alongwith the arrears thereof from the date it becomes due till the date of payment alongwith market rate of interest thereof....."

3. The factual matrix of the case are that while the applicants were working as Tailor in the pay scale Rs. 210-290, a circular dated 05.10.1984 was issued by the respondents with regard to up-gradation of various categories of Semi Skilled workers in the respondents' establishment in pay scale of Rs. 260-400/-. In pursuance of the said circular dated 05.10.1984, direct recruits with III certificate/Ex-trade apprentices/National Council of Technical and Vocational Training etc.

were inducted for revised pay scale of Rs. 260-400, who had rendered two years of service in the semi skilled grade. According to the applicants, as the category of 'Tailor' was not shown in the circular dated 05.10.1984, Govt. of India issued another circular dated 25.04.1985 which deals 'exclusively' with the 'Tailors' . The main grievance of the applicants is that although they belong to 23rd Batch and all Semi Skilled Tailors have to be up-graded in the revised pay scale of Rs. 240-400, but the respondents did not upgrade the pay scale of the applicants as well as other similarly situated employees of 23rd Batch, whereas pay scale of employees of 24th batch, who were junior to the applicants, were up-graded in the pay scale of Rs. 260-400/-. Aggrieved the applicants filed composite representation dated 18.09.1988 requesting the respondents to remove anomalies and to give the benefit of up-gradation of pay to Skilled Tailors in view of the fact that all the applicants had already completed two years of service in the Semi Skilled grade. But as the respondents did not pay any heed to the representation dated 18.09.1988, the applicants approached the Trade Union to interfere in the matter. According to the applicants, the Ordnance Factory Mazdoor Sangh vide their letter dated 18.09.1989 requested the respondents to make proper placement of the applicants as well as other employees of 23rd Batch by upgrading them in the revised pay scale of Rs. 260-400/- in view of the fact that the junior to the applicants belonging to 24th batch were given the said benefit. In response to the letter of Union, the respondents vide their letter dated 14.10.1988 informed the Union that the employees of 23rd Batch belonging to 'Skilled Tailors' were also given the revised upgraded scale of Rs. 260-400, but, according to the applicants, the respondents did not give the benefit of upgraded revised pay scale of 'Skilled Tailors' to the employees of 23rd Batch. Aggrieved by the action of respondents, a number of employees of

23rd Batch filed Original Application No. 154/1992 (Mohd. Aslam and 53 Ors. Vs. U.O.I & Ors.), which was allowed by this Tribunal vide judgment and order dated 18.03.1997 with direction to the respondents to give upgraded higher pay scale of Rs. 260-400 of 'Skilled Tailors', which is also known as Skilled Grade on completion of 2 years of training with consequential benefits including the promotion and seniority.

4. Learned counsel for the applicants vehemently argued that the respondents, in compliance of the judgment dated 18.03.1997, passed an order dated 19.08.1997 giving the benefit of upgraded pay scale of Rs. 260-400 to the applicants of O.A No. 154/1992 (referred to above) from the date they had completed two years in the Semi Skilled Grade. Learned counsel for the applicants further submitted that although the contention of the applicants of O.A No. 154/1992, who were of 23rd batch, was accepted and the said O.A was allowed to the extent that the person belonging to 23rd Batch, who had completed 2 years of service in 'Semi Skilled' grade, were entitled for upgraded revised pay scale of Rs. 260-400 but the respondents by adopting arbitrary and discriminatory approach, implemented the judgment dated 18.03.1997 only with respect to those, who were party in O.A No. 154/1992 which is totally illegal and against the settled principle of law.

5. Learned counsel for the applicant would further contend that as the employees belonging to 23rd Batch were deliberately deprived of the benefit of upgraded pay scale of Rs. 240-400/- they filed O.A No. 10/1998 (S.N. Shukla and 52 others Vs. U.O.I & Ors.), which was decided by the Tribunal vide judgment dated 29.04.2004 with direction to the respondents to decide the representation of the applicants in respect of

their claim for grant of Skilled Grade Tailors and upgraded salary of Rs. 260-400 after completion of two years of service in Semi Skilled Grade and to grant other benefit taking into account the direction contained in judgment dated 18.03.1997 passed in O.A No. 154/1992. Thereafter the applicants served the copy of judgment dated 29.04.2004 upon the respondents on 26.05.2004 alongwith representation but they rejected the claim of the applicants vide order dated 31.07.2004/Annexure-6 of O.A merely on the ground of delay and latches, which is totally against the settled principle of law and sought for quashment of same.

6. In support of his contention, learned counsel for the applicants placed reliance on following decisions rendered by Hon'ble Supreme Court: -

i. **Maharaj Kishan Bhatt Vs. State of Jammu and Kashmir – 2008 (9) SCC page 24;**

ii. **K.C. Sharma Vs. U.O.I & Ors. – JT 1997 (7) SC page 58;**

iii. **M. Indira Vs. Adminsitration – 1998 (38) (ATC) page 169;**

iv. **Sujit Kumar Ghosh Vs. U.O.I & Ors – 1996 (42) ATC 347;**

v. **State of Karnataka Vs. C. Lalita – 2006 (2) SCC 747;**

vi. **N.T. Devinkathi Vs. Public Service Commission – 1990 SCC (L&S) page 446.**

7. On notice the respondents filed Counter Affidavit. The main ground of rebuttal of the claim of the applicants by the respondents is that as the cause of action arose to the petitioner in the year 1985-86 and if they were aggrieved , they should have agitated the matter in the year 1985-1986 itslef for claiming the relief. In support of their contention, they placed reliance on a decision rendered by Hon'ble Supreme Court in **Bhoop**

Singh Vs. U.O.I & Ors. - 1992 ATC (21) page 675 and sought for dismissal of O.A mainly on the ground of delay and latches. It paragraph 23 of the Counter Affidavit, it has been stated by the respondents that the employees of 23rd and 24 batch of Trade Apprentices were promoted only after being declared successful in the requisite trade test. Formalities of trade test could be completed only in the third year wherein the applicants of 23rd batch were also included. It has further been contended in said paragraphs that according to the instructions contained in MOD letter Dt. 25.04.1985, the employees in Semi Skilled grade become eligible for promotion to Skilled grade only after putting in two years of service subject to fulfillment of other conditions such as satisfactory performance and passing of requisite trade test. In paragraph 32 of the Counter Affidavit, respondents have further stated that the judgment and order dated 18.03.1997 passed in O.A No. 154/1992 did not mention that the benefit of the said order may be extended in respect of the other employees of 23rd batch. The respondents have further stated that the applicants of O.A No. 10/1998, also the applicants of this O.A, claimed for the same relief as given to the applicants of O.A No. 154/1992 only after availing the benefit of 4th and 5th Pay Commission i.e. after more that 12 years of the cause of action. The applicants were promoted to the Skilled Grade after qualifying the prescribed trade test for which they were entitled. According to the respondents, the promotion was liable to be considered after conducting trade test after two years and not before two years whereas the applicants had claimed benefit from the date after completion of two years on initial appointment i.e. in 1985-86 and made claim after 12 years. Learned counsel for the respondents placed reliance on a decision rendered by the Hon'ble Supreme Court in Administrator of Union Territory of Daman and Diu & Ors. R.D. Valanad - 1996 SCC (L&S)

205 and submitted that the competent authority has rightly rejected the claim of the applicants being time barred and sought for dismissal of O.A.

8. We have heard learned counsel for both sides and perused the pleadings as well as the Written Arguments furnished by either sides.

9. The main question which have to be resolved whether the applicants being the employees of 23rd batch, are entitled to get the benefit of judgment and order dated 18.03.1997 passed in O.A No. 154 of 1997 (Mohd. Aslam and Ors. Vs. U.O.I & Ors.). The operative portions of judgment dated 18.03.1997 reads: -

> "5. *In view of the above discussion, we direct the respondents that the applicants should be given higher grade of Rs. 260-400/- of Skilled tailors which is also known as Skilled grade on completion of 2 years of training. Their consequential benefits including the promotion and seniority, increments may also be determined and given to them within a period of 6 months.* ....." .

10. Undisputedly the applicants of O.A No. 154/1997 (referred to above) belonging to 23rd batch, to which the applicants of present O.A belong. Therefore, in view of the decision rendered by the Hon'ble Apex Court in **Maharaj Kishan Bhatt Vs. State of Jammu and Kashmir - 2008 (9) SCC page 24** wherein it has been held by the Hon'ble Apex court that once a judgment had attained finality, it cannot be termed as wrong and its benefit ought to have been extended to other similarly situated persons giving similar benefit extended to all similarly situated persons and benefit of earlier judgment must be granted after condoning delay, the applicants are entitled to the similar benefit.

(Underlined to lay emphasis)

11. Further in a Constitution Bench decision rendered by Apex Court in the case of **K.C. Sharma Vs. U.O.I & Ors. - JT 1997 (7) SC page 58**, it has been held that the benefit of Supreme Court judgment is to be extended to all, even those who were not party before Supreme Court.

(Underlined to lay emphasis)

In another judgment in the case of **M. Indira Vs. Adminsitration - 1998 (38) (ATC) page 169**, Hon'ble Supreme Court has clearly held that if the benefit is available to a class of employee either on the basis of constitute or the rule of competent court, the same benefit shall be extended to all similarly situated employees;

(Underlined to lay emphasis)

Hon'ble Apex Court in the matter of **Sujit Kumar Ghosh Vs. U.O.I & Ors - 1996 (42) ATC 347** further held that benefit must be extended to all such employees. Decision of the government to grant of benefit only to those, who approached the court, has been deprecated - the government being a model employer must extend the benefit to all the employees and not to drive them to litigate with state;

(Underlined to lay emphasis)

12. As far as the objection raised by the learned counsel for the respondents that the claim of the applicant are highly time barred and only for this reason, they are not entitled to get the benefit of judgment passed in O.A No. 154/1992. Learned counsel for the applicants also placed reliance on the decisions rendered by the apex court in **State of Karnataka Vs. C. Lalita - 2006 (2) SCC 747 and N.T. Devinkathi Vs. Public Service Commission - 1990 SCC (L&S) page 446** wherein it has been held - ".....all the persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that persons similarly situated should be treated differently..... Justice demands that a person should not be allowed to

derive any undue advantage over employees. The concept of justice is that one should get what is due to him or her in law. .....".

(Underlined to lay emphasis)

13. Having gone through the pleadings and the arguments advanced by either side, we are firmly of the opinion that in view of the decision rendered by Hon'ble Apex Court in **Maharaj Kishan Bhatt Vs. State of Jammu and Kashmir (Supra) and Constitution Bench Decision in K.C. Sharma's case (Supra),** the objection of the respondents with regard to delay and latches is not sustainable. Apart from this, we have also considered other arguments advanced by the learned counsel for the respondents and in view of decisions rendered by Apex Court (referred to above), we find that the claim of the applicants is entirely covered by the aforesaid decisions. In our considered view the applicants are entitled to get the benefit of judgment and order passed in O.A No. 154/92.

14. In view of the above discussions, all the O.As are allowed. Order dated 31.07.2004/Annexure A-6 of O.A/s is hereby quashed and set aside. The respondents are directed to consider the claim of the applicants in the light of directions contained in paragraph 5 (quoted above) of judgment and order dated 18.03.1997 passed in O.A No. 154/1997 (Mohd. Aslam and Ors. U.O.I & Ors.). The respondents shall complete the entire exercise within a period of six months from the date of receipt of copy of this order.

15. There will be no order as to costs.

CERTIFIED TRUE COPY
Dated....11.5.09.....

अनुभाग अधिकारी (....)
Section Officer (....)
केन्द्रीय प्रशासनिक अधिकरण इलाहाबाद
Central Administrative Tribunal
Allahabad Bench Allahabad