

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
BENCH ALLAHABAD**

(THIS THE 7th DAY OF October, 2010)

Hon'ble Dr.K.B.S. Rajan, Member (J)
Hon'ble Mrs. Manjulika Gautam, Member (A)

Original Application No. 383 of 2006
(U/S 19, Administrative Tribunal Act, 1985)

- 1- *Chandrama Prasad Arya S/o Late Ram Lekhan Kurmi, aged 53 Years, R/o Vill.- Madho Rampur, Post - Parsi pur, District - Sant Ravi Das Nagar.*
- 2- *Sita Saran Maurya S/o Late Dash Rath Prasad, Aged 57 years, r/o Makanpur, Post - Matethoo, District - Sant Ravi Das Nagar.*
- 3- *Jagan Nath Pal S/o Late Nahnkoo Pal, Aged 54 years, r/o Vill - Newada Khurd, Post - Kukrauthi, District - Sant Ravi Das Nagar.*
- 4- *Lal Chandra s/o Late Kallo Ram, Aged 55 years, Vill - Dalapur Bhaktan, Post - Gohilawn Bazar, District - Sant Ravi Das Nagar.*
- 5- *Shiv Kumar S/o Late Jhagur, Aged 49 years, Vill - Madho Ram Pur, Post - Parsi Pur, District - Sant Ravi Das Nagar*
- 6- *Ram Murat Maurya S/o Late Sri Ram Maurya, Aged 56 years, Vill- Fulwaria, Post - Kukrauthi, District - Sant Ravi Das Nagar.*
- 7- *Mohd. Mustkin S/o Mohd. Yakub, Aged 50 Years, Vill.-Sudhwal, Post - Rampur, District - Jaunpur.*
- 8- *Bhola Nath Yadav S/o Ram Prasad Yadav, Aged 54 years, Vill - Sudhwal, Post - Sudhwai (Unj), District - Sant Ravi Das Nagar.*
- 9- *Bagwan Bax Singh, S/o Brij Raj Singh, Aged 54 Years, Vill. - Gahar Pur, Post - Karo Bankat, District Jaunpur.*
- 10- *Hira Lal S/o Bhagwati Prasad, Aged 58 Years, Vill.- Husaini pur, Post - Khamharia, District - Mirapur.*
- 11- *Lal Ji Maurya S/o Ram Kishore Maurya, Aged 50 years, Vill.-Bira Patti, Post - Gararia pur, District - Sant Ravi Das Nagar.*
- 12- *Rama Nandan Pal, S/o Late Sri Pal, Aged 52 Years, Vill.- Husaini pur, Post - Khamharia, District - Mirzapur.*
- 13- *Shiv Jatan Pal, S/o Ram Khilawan Pal, Aged 49 Years, Vill.- Bhurki, Post - Gyanpur, District - Sant Ravi Das Nagar.*
- 14- *Mohd. Yasin S/o Rasul Aged 57 Years, Vill.-Bhiura Nai Basti, Post - Rampur, District - Jaunpur.*

- 15- Chhakan Ram, S/o Raghunath, Aged 59 Years, Vill.- Newada, Post - Sakalpur, District - Varanasi.
- 16- Prabhu Nath Yadav, S/o Late Pancham Ram, Aged 58 Years, R/o Duduwa Post- Kukrauthi, District - Sant Ravi Das Nagar.
- 17- Mohd. Ainul, S/o Shekh Abdul Hakim, Aged 45 Years, Vill.- Semuhi, Asha Nandpur, Post - Rampur, District Jaunpur.
- 18- Shyam Lal, S/o Late Shiv pujan, Aged 46 Years, Vill.-Gori Dih, Post-Khamharia, District - Sant Ravi Das Nagar.
- 19- Ram Khelawan, S/o Late Shiv Kumar Yadav, Aged 52 Years, Vill.- Bari (Chak Bhav Nath), Post Dashrath pur, District - Sant Ravi Das Nagar.
- 20- Mewa Lal Yadav, S/o Jagoo Yadav, Aged 51 years, Vill.- Newada Khurd, Post - Kukrauthi, District - Sant Ravi Das Nagar.
- 21- Banwari Lal, S/o Sita Ram, Aged 54 years, Vill & Post - Biram pur, District - Sant Ravi Das Nagar.
- 22- Lal Chand Bind, S/o Lur Khur, Aged 46 Years, Vill.- Bhatewara, Post - Akauni, District - Sant Ravi Das Nagar.
- 23- Shyam Narain, S/o Moti Lal, Aged 49 years, Vill.- Bhagauti Das pur, Bhagwanpur, District - Sant Ravi Das Nagar.
- 24- Sri Ram, S/o Ram Karan, Aged 56 Years, Vill.- Ban Kat (Bhakora), Post - Palhaiya, District - Sant Ravi Das Nagar.
- 25- Kapoor Chand, S/o Bedi, Aged 48 Years, Vill.-Damanpur Samdha, Post - Ugapur, District - Sant Ravi Das Nagar.
- 26- Bhinkoo Ram, S/o Ram Sumer, Aged 47 years, Vill.- Bharatpur (Samdha), Post - Ugapur, District - Sant Ravi Das Nagar.
- 27- Mattan Bind S/o Late Rama, Aged __ Years, Vill.- Ugai, Post - Modh, District - Sant Ravi Das Nagar.
- 28- Uma Lal S/o Ram Pyare, Aged 56 Years, Vill.- Darbasi, Post - Darbasi, District - Sant Ravi Das Nagar.
- 29- Raja Ram Pal S/o Late Dullan, Aged 52 Years, Vill. - Bhagwan pur, Post - Barwna Bazar, District - Sant Ravi Das Nagar.
- 30- Mahi Lal S/o Deepak Ram, Aged 47 Years, Vill.- Rainull pur, Post - Nai Bazar, District - Sant Ravi Das Nagar.
- 31- Ram Dular S/o Khurbudh Ram, Aged 52 Years, Vill. - Shiv Das pur, Post - Parsipur, District - Sant Ravi Das Nagar.

Applicants named above from SL. Nos. 1 to 15 are working as Instructors and from 16 to 31 as Asst. Instructors in the office of Assistant Director (A & C) Carpet Weaving Training cum Service Centre Bareilly, U.P.

..... Applicants

Present for Applicant :Shri O.P.Gupta, Advocate

Shri Pankaj-Sriram Das, Esq.
Advocate.

Versus

1. *Union of India through Secretary Ministry of Textile, Govt. of India, New Delhi.*
2. *Development Commissioner (handicraft), Office of Development Commisioner, Ministry of Textile, West Block No.7. R.K. Puram New Delhi. 110066.*
3. *Regional Director (handicraft), office of Development Commissioner (H), Kendriya Bhawan, 7th Floor Sector-H, Aliganj, Lucknow.*
4. *Asst. Director Handicraft (A&C), office of Development Commissioner (H), Carpet Weaving Training cum Service Centre, 85, Raghubansi Complex, Civil Line, Bareilly. U.P.*

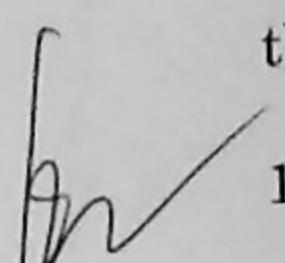
..... *Respondents*

Present for Respondents : Shri P.D. Tripathi, Advocate

O R D E R

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

The applicants herein entered the services of the respondents' organization as Master Craftsman and Assistant Craftsman during the span of 1976-80 on a consolidated sum of Rs 400/- and 300/- respectively. In 1990, in pursuance of an order of this Tribunal, the respondents had created the posts of Instructors and Assistant Instructors and the applicants were absorbed against the aforesaid posts. The two posts carried the pay scale, respectively Rs 1200 – 2040 and Rs 950 – 1500/-. According to the applicants, earlier, in 1975, there was a specific pay scale both for Master Craftsman (Rs 425 – 700/ 1400 – 2300) and Assistant Craftsman (Rs 330 – 560/1200 - 2040) and though the applicants were designated as Master Craftsman and Assistant Craftsman, their pay was restricted to a consolidated sum of Rs 400/- and Rs 300/- respectively. Thus, the claim of the applicants is that they should be paid the higher pay scale of Rs 1400 – 2300 and Rs 1200 – 2040 respectively from the initial date of their engagement or at



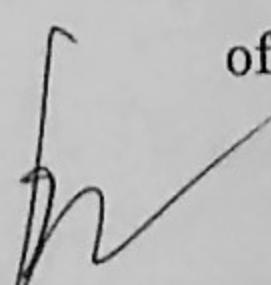
least from the time they have been absorbed against the post of Instructors and Assistant Inspectors respectively.

2. Respondents have contested the O.A. According to them, the creation of posts of Instructors and Assistant Instructors in 1990 is the culmination of OA No. 545/1986 which was decided on 09-08-1988 against which the SLP filed by the Respondents was dismissed, vide Annexures CA-1 and CA -2 respectively. It has further been stated that applicants and others were regularized against such regular post, w.e.f. 03-10-1985 in accordance with the directions of the Tribunal. They have elaborated the facts regarding the engagement of the applicants i.e. they were engaged in 1976 in Carpet Weaving Training Centre under the Department as "Daily Wager" on a consolidated wage basis.

3. Earlier some other similarly situated individuals filed OA No. 369/2003 seeking identical relief which stood dismissed vide Order dated 9th February 2004.

4. Consequent to the creation of the post of Instructors and Assistant Instructors, the applicants were placed in the respective scale meant for them, and the same is in tune with the decision of this Tribunal in OA 545/1986.

5. In their rejoinder, the applicants have stated that the claim of the applicants is for upward revision of pay scales equivalent to that of Master Craftsman and Assistant Craftsman and not for

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regularization in the posts of Instructors and Assistant Instructors from a still retrospective dates.

6. Supplementary counter has also been filed by the respondents stating that similar petition in OA No. 160/2006 seeking almost similar relief was filed before this Tribunal which was dismissed on 9th April, 2009 vide Annexure SCA -1. As such, it was prayed that it would be appropriate that this OA be also dismissed.

7. Counsel for the applicant argued that the dismissal of OA No. 160/2006 is entirely on a different subject matter i.e. ACP. The claim of the applicants is revision of pay scale as the applicants were initially engaged as Master Craftsman/Assistant Craftsman whose pay scales right from 1985 had been higher than the pay scale attached to the post of Instructors /Assistant Instructors respectively. It has also been argued that there has been no difference in the functional responsibilities from the beginning and as such, the applicants are entitled to the pay scale attached to Master Craftsman and Asst. Craftsman as the case may be.

8. Counsel for the respondents submitted that the applicants cannot claim higher scales of pay as they are not entitled to the same.

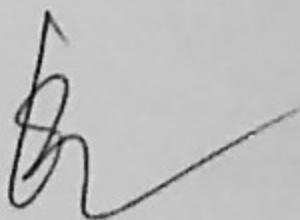
9. Arguments were heard and documents perused. Admittedly, the applicants were engaged as Master Craftsman and Assistant Craftsman but on a consolidate pay. It was through an order of this Tribunal that their services were to be regularized from a year anterior to the date of filing of the O.A. Thus, the link between their earlier engagement and their regularization against specific posts has

been maintained intact. The functional responsibilities of the applicants are stated to be the same and what was changed was the nomenclature as Instructors and Assistant Instructors and a particular pay scale has been attached to each grade. The questions that arises for consideration are as under:-

- (a) Whether change in nomenclature could dictate the pay scales?
- (b) Whether functional responsibilities remained the same right from the beginning?
- (c) Whether there is any specific reason for fixing the scales at Rs 1200 – 2040 for instructors and 950 – 1500 for Assistant Instructors.

10. As regards (a) it is to be answered in negative as nomenclature cannot dictate the pay scale of a post. It is the functional responsibility, educational qualifications and experience etc., attached to the post that would dictate the terms of pay and allowances. As regards the rest of the questions, the same are to be answered after a thorough undertaking of the entire aspects, including the nature of duties and extent of responsibilities, comparison with the functional responsibilities of Master Craftsman/Assistant Craftsman of other comparable institutions etc., This calls for a study group consisting of the official side and the employees side and this kind of an exercise is beyond the scope of the functions of the Tribunal. At this juncture, it is worth referring to the decision of the Apex Court in the following cases where the observations are as under:-

- (a) in the case of *Union of India v. Dineshan K.K.*, (2008) 1 SCC 586, the Apex Court has held as under:



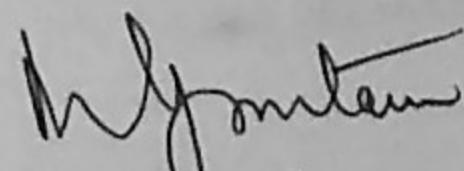
It has been observed that equation of posts and equation of pay structure being complex matters are generally left to the executive and expert bodies like the Pay Commission, etc.

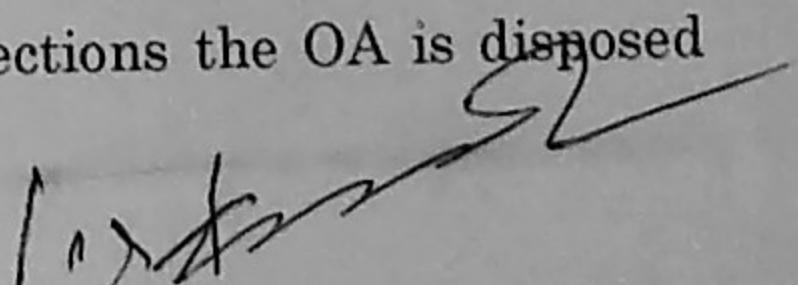
(b) *State of Bihar v. Bihar Veterinary Assn., (2008) 11 SCC 60 :*

13. *If the courts start disturbing the recommendations of the pay scale in a particular class of service then it is likely to have cascading effect on all related services which may result into multifarious litigation. The Fitment Committee has undertaken the exercise and recommended the wholesale revision of the pay scale in the State of Bihar and if one class of service is to be picked up and granted higher pay scale as is available in the Central Government then the whole balance will be disturbed and other services are likely to be affected and it will result in complex situation in the State and may lead to ruination of the finances of the State.*

11. Keeping in view the above decision when the case is analyzed, as the original nomenclature of the applicants' post was master craftsman and assistant craftsman, it is appropriate that their pay scale is considered for that post only subject to comparison of functional responsibilities. As such, a committee of officers of the rank of Joint Secretary and below and the staff members shall have to be formed which would go into various aspects as stated above and arrive at a decision as to whether the pay scales of the applicants should be revised as prayed for and if so, from which date. Respondents are allowed eight months time for undertaking this exercise. The Committee's recommendation could be referred to the Government for further action for revision of pay scale within a period of four months thereafter. If however, the recommendations of the Committee are to maintain status quo, the applicants be informed accordingly.

12. With the above observations/directions the OA is disposed of. No cost.


Member-A


Member-J

Sushil