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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 511 OF 1991
Cuttack, this the 16th day of September, 1999

Abdul Jalil and others Applicants

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *Yes*.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *No*.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

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16.9.99

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 511 OF 1991
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CORAM:

**HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)**

.....

1. Abdul Jalil, s/o late Abdul Gaffar
2. Bijaya Kumar Acharya, s/o D.N.Acharya
3. Govind Chandra Bhoi, s/o Hadibandhu Bhoi
4. Rajanikanta Behera, s/o Brundaban Behera
5. Laxmidhar Panda, s/o Kulamani Panda
6. Ajaya Kumar Champati, s/o late Banchhanidhi Champati
7. Dibakar Malik, s/o late Dinabandhu Malik
8. Sarat Kumar Rautrai, s/o late Dhadi Routrai
9. Ananta Ch.Tripathy, s/o Bhagirathi Tripathy
10. Mihir Kumar Das, son of Anadi Ch.Das
11. D.D.Behera, son of late Bidyadhar Behera
12. Prafulla Kumar Sethi, s/o Bidyadhar Sethi
13. Suresh Chandra Jena, s/o Khetrabasi Jena
14. Purnananda Mishra, s/o Satyananda Mishra
15. Edu Mohammad, s/o late Mansur Mahammad
16. Subash Ch.Ghose, s/o late Meghadut Ghose
17. Gadadhar Swain, s/o Jagannath Swain
18. Managobinda Pallai, s/o Ghanashyam Pallai
19. Khitish Kumar Barua, s/o late Sudhansu Kumar Barua
20. Ashutosh Roy, s/o late Baresh Ch.Roy
21. Surendranath Rath, s/o late Lokanath Rath
22. Dhruba Charan Bhoi, s/o Shankar Bhoi
23. Subash Chandra Ray, s/o late Upendra Ray
24. Akshaya Kumar Das, s/o Basanta Kumar Das
25. Kishore Chandra Sahoo, s/o Kasinath Sahoo
26. Jogendra Patra, s/o late Gurubari Patra
27. M.D.Jena, s/o Banamali Jena
28. Nirloop Kumar Mohanty, s/o Biranchi Narayan Mohanty
29. Benudhar Swain, s/o late Budhi Swain
30. Mathuri Charan Parida, s/o Krishna Ch.Parida
31. Nagendranath Das, son of Dhruba Das
32. Pitambar Nayak, s/o Harihar Nayak
33. Kuna Behera, s/o Chaitan Behera

all are working as Binder Gr.II, Government of India Text Book Press, Bhubaneswar, P.O-Shainik School, Bhubaneswar-5, Dist.Puri

Applicants

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Advocates for applicants - M/s J.Patnaik,
H.M. Dhal
S.K.Patnaik

Vrs.

1. Union of India, represented through the Secretary to Government of India, Ministry of Urban Development, Nirman Bhawan, New Delhi-110 001.
2. Director of Printing, B-Wing, Nirman Bhawan, New Delhi-110 011.
3. Manager, Government of India Text Book Press, Bhubaneswar, P.O-Shainik School, Bhubaneswar, District-Puri..... Respondents

Advocate for respondents - Mr.Ashok Mishra
Sr.Panel Counsel.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application under Section 19 of Administrative Tribunals Act, 1985, the petitioners have prayed for quashing the notifications dated 30.8.1990 at Annexure-3 and dated 14.9.1990 at Annexure-4 insofar as these relate to change of designation of the applicants who are working as Binders Grade-II. The second prayer is for a direction to the respondents to fix the pay scale of the applicants equal to that of Machine Assistants (Offset).

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2. The case of the applicants is that they are working in the establishment of Manager, Government of India Text Book Press, Bhubaneswar, as Binders Grade-II in the scale of Rs.950-1400/- as per the report of the Fourth Pay Commission. Some of them are working in

the post for long years from 1972 onwards. Nature of work of Binder Grade-II is operation of Binding Machines for the purpose of binding various books. Each Binder Grade-II is assisted in his work by Bindery Assistants. Binders Grade-II are entitled to be promoted to Binders Grade-I. Posts of Binder Grade-II are filled up by way of promotion from the posts of Bindery Assistants as well as direct recruitment. Some of the applicants are promotees from the post of Bindery Assistant and some are direct recruits. In the First Pay Commission report the pay scale of Binder Grade-II was Rs.110-150/-. In the Second Pay Commission report the pay scale remained unchanged. In the Third Pay Commission report the pay scale was changed to Rs.260-350/-. According to the Fourth Pay Commission report, the pay scale of Binder Grade-II was Rs.950-1400/-. Along with the revision of pay scale of Binder Grade-II there was revision in the pay scales of other categories of employees of the Press. At all relevant time the pay scale of Machine Assistant was also changed and the pay scale of Machine Assistants was always fixed at par with Binders Grade-II. In the Text Book Press there are three categories of employees in the Binding Section, namely, Binder Grade-I, Binder Grade-II and Bindery Assistant. Bindery Assistants are promoted as Binders Grade-II, and Binders Grade-II are promoted as Binders Grade-I. In Office Memorandum dated 12.10.1982

17

(Annexure-1) issued by Directorate of Printing, Government of India, the ratio of Binders and Bindery Assistants has been maintained at 50:50 as against the prayer for changing it to 75: 25. From the job charts issued to the staff in the Binding Section it is clear that for a particular machine Bindery Assistants have been posted along with Binders Grade-I and Binders Grade-II. One of the job charts which came into force with effect from 1.1.1983 is at Annexure-2 showing that for every machine along with Binders, Bindery Assistants have been posted. The report of the Fourth Pay Commission came into force from 1.1.1986. In the Pay Commission report the pay scale of Binder Grade-II as also Machine Assistant was fixed at Rs.950-1400/-. After implementation of the report of the Fourth Pay Commission, an Inter-departmental Committee was set up basing on the report of which the Ministry of Urban Development issued Office Memorandum dated 30.8.1990 (Annexure-3) revising the pay scales of various categories of employees. On the basis of recommendation of the Inter-Departmental Committee the scale of pay of Binder Grade-II was changed from Rs.950-1400/- to Rs.950-1500/- and it was also indicated that posts of Binder Grade-II would be redesignated as Bindery Assistants. Pay scale of Bindery Assistants was also changed from Rs.800-1150/- to rs.950-1500/-. Thus pay scales of Binder Grade-II and

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Bindery Assistant were equalised at Rs.950-1500/- and Binders Grade-II were redesignated as Bindery Assistants.

So far as pay scale of Machine Assistant is concerned, their Fourth Pay Commission scale of Rs.950-1400/- was equal to the pay scale of Binders Grade-II, but they are now classified as Highly Skilled Grade-II with the pay scale of Rs.1200-1800/-. It was also indicated that this post will be redesignated as Offset Machine Assistant. In pursuance of O.M. dated 30.8.1990 respondent no.3 issued circular dated 14.9.1990 at Annexure-4 changing the pay scale and directing the applicants to exercise option under FR 23 by 30.10.1990.

The Union of the employees of Government of India Text Book Press filed a representation on 1.10.1990

(Annexure-5) representing the grievance of the applicant with regard to their demotion and also with regard to

granting them lower scale of pay than the revised pay scale of Machine Assistants. No action was taken on this

whereupon the applicant filed OA No. 401/90. In order dated 20.11.1990 the Tribunal disposed of the OA with a

direction to the respondents to dispose of the representation expeditiously. Even though the order dated 20.11.1990 (Annexure-6) has been passed by the Tribunal

more than a year prior to filing of the OA their representation has not been disposed of and no order has

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been communicated to the applicants or their union. In the context of the above facts, the applicants have come up in this petition with the prayers referred to earlier.

3. The respondents in their counter have stated that the applicants had earlier approached the Tribunal in OA No.401/90 which was not admitted and as such the present application is hit by principles of resjudicata. It has been submitted that in the impugned order dated 14.9.1990 at Annexure-4 Binders Grade-II were asked to exercise option whether they want to retain their old designation of Binders Grade-II in the old scale of pay of Rs.950-1400/- or they want to be redesignated as Bindery Assistants in the scale of pay of Rs.950-1500/-. The applicants exercised their option in favour of acceptance of the offer. If the applicants felt that their rank has been reduced they could have opted to retain their old designation and pay scale, but they have not done so. The respondents have stated that the prayer of the applicants for equal scale of pay as that of Machine Assistants (Offset) is not hit by principles of resjudicata. But as the aforesaid prayer has not been granted within six months of representation dated 1.10.1990 and the applicants having come up in November 1991 this prayer is also barred by time. The respondents have stated that the nature of work of Binder Grade-II

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and Bindery Assistants is the same. Both are required to know handling of machines in counting, folding, gathering, stitching, perforating, cutting, numbering, etc. Previously promotion was given from Bindery Assistant to Binder Grade-II. According to the Fourth Pay Commission recommendation scale of pay of Bindery Assistant was fixed at Rs.800-1150/- and the Bindery Assistants were classified as Semi-skilled whereas Binders Grade-II were classified as Skilled and given the pay scale of Rs.950-1400/-. After receipt of the recommendation of the Fourth Pay Commission, the Inter-Departmental Committee was set up as recommended by the Fourth Pay Commission. On the basis of recommendation of the Inter-Departmental Committee, Government of India issued order dated 30.8.1990. The Inter-Departmental Committee reclassified Bindery Assistants and Binders Grade-II and Machine Assistants as Skilled and recommended merging of Bindery Assistants and Binders Grade-II into one scale of Rs.950-1500/-. The post of Machine Assistant was bifurcated into two. Machine Assistant (Letter Press) was classified as Skilled and was given the scale of Rs.950-1500/- and Machine Assistant (Offset) was classified as Highly Skilled Grade-II and was given the pay scale of Rs.1200-1800/-. The post of Machine Assistant (offset) was termed as Highly Skilled as technical qualification, academic

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qualification, practical experience, etc. are completely different for them from that of Machine Assistant (Letter Press). While the posts of Bindery Assistants and Binders Grade-II were amalgamated and redesignated as Bindery Assistants, it was decided that erstwhile Binders Grade-II as a class will rank senior to erstwhile Bindery Assistants and therefore the applicants are in no way prejudiced in the pay scale or in the matter of promotion as senioritywise they have enblock been placed higher than the Bindery Assistants. It is also stated that Machine Assistants (Letter Press) have been given the same scale of pay of Rs.950-1500/- and thereby equality of Binders Grade-II, redesignated as Bindery Assistants, with Machine Assistants (Letter Press), both classified as Skilled category has been maintained. It is further stated that promotion prospects of the applicants have also been protected. Earlier the ratio between Binders, i.e., Binders Grade-I and Binders Grade-II and Bindery Assistants was 50:50. Amongst Binders 80% were Grade-II and 20% Grade-I. Thus, of a block of 10 Bindery staff one would have been Binder Grade-I, 4 Binders Grade-II and 5 Bindery Assistants. After merger the new ratio will come to 1:9. The existing strength of Binders and Bindery Assistants inclusive of the erstwhile Binders Grade-II works out to 4 and 50 respectively which is

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nearer to the ratio of 1:9. On the above grounds, the respondents have opposed the prayers of the applicants.

4. The respondents have filed another counter termed as final counter in which they have reiterated most of the averments made in their counter, as noted by us earlier. The only two new points made by them in this final counter are that Bindery Assistants have been redesignated as Assistant Binders. They have also stated that Association of bindery staff of Government of India presses have filed OA No.2679 of 1992 before the Principal Bench of the Tribunal and the same is pending. Therefore it has been submitted that the present application may have to be decided in accordance with the decision of the Principal Bench of the Tribunal at Delhi. On the above grounds, in this final counter the respondents have opposed the prayer of the applicant.

5. The applicants in their rejoinder have stated that right from the beginning, in Government of India Press Bindery Assistants were working under direct supervision and control of Binders Grade-II. In fact sophisticated German machines were to be handled either by Binders Grade-II or by Binders Grade-I, and only the Bindery Assistants were required to assist them. They have stated that by this artificial merger of Binders Grade-II with Bindery Assistants lot of discontentment has been created mroeso when in the Defence establishment

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and Railways posts of Binders Grade-II are continuing separately from posts of Bindery Assistants which form a separate cadre. It is further stated that Government of India Press at Bhubaneswar is an offset press entirely managed by sophisticated machines gifted by West German Government. The normal process of fixation of letters and alphabets by way of composing is not the practice in this press where all works right from composing to production are done by machines and not manually. It is also stated that there are a number of machines and in respect of each machine, along with Binder Grade-II, Bindery Assistants are posted to assist Binders Grade-II. The duty charts have been filed at Annexure-3 series. The Hand Book containing duty chart of Bindery Assistants and Binders also show that these categories are separate having distinct duties and the Binders are to do more skilled works than Bindery Assistants. It is stated that the Fourth Pay Commission had never recommended the Binders Grade-II to be merged with Bindery Assistants but even then it has been done by Government of India without reasonable grounds. In the rejoinder the applicants have pointed out that in the Ministry of Defence the designation of Binder Grade-II has been maintained and Binders Grade-I have been given the revised scale of Rs.1200-2040/- whereas in the Ministry of Urban

Development they have been given the scale of pay of Rs.1200-1800/-.. It has been furtherstated that Binders Grade-I and Binders Grade-II should have been merged and redesignated as Binders. Instead of that Binders Grade-II have been merged with a lower category. On the above grounds, the applicants have reiterated their prayer in the OA.

6. We have heard Shri J.Patnaik, the learned counsel for the petitioners and Shri Ashok Mishra, the learned Senior Panel Counsel for the respondents and have also perused the records. Before taking up the various submissions made by the learned counsel for both sides, some preliminary points raised by the respondents will have to be considered first.

7. It has been submitted by the respondents that the Tribunal not having admitted the earlier OA No.401/90 in their order dated 20.11.1990 the present application is hit by principles of resjudicata. Copy of this order is at Annexure-6 and from this it is seen that the Tribunal had disposed of the earlier OA with a direction to respondent no.2 in that Application to dispose of the representation made by the applicants expeditiously and on that ground the Tribunal indicated that they were not inclined to admit the Application

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before them. From this, it is clear that in their order dated 20.11.1990 the Tribunal did not hear and decide the merits of the prayers of the applicants and therefore the present Application cannot be said to have been hit by principles of resjudicata.

8. The second contention raised by the respondents is that the Union of the applicants having filed the representation on 1.10.1990 and the applicants not having approached the Tribunal earlier, the present application is barred by limitation. From the averments of the respondents it appears that the representation dated 1.10.1990 filed by the applicants has not been disposed of by the respondents notwithstanding the direction of the Tribunal dated 20.11.1990 to the respondents to do so expeditiously. Under the rules the applicants were required to wait for six months and approach the Tribunal within one year thereafter. Therefore the applicants should have given time to the departmental authorities for six months upto April 1991 to dispose of the representation and thereafter could have approached the Tribunal by April 1992. The present application having been filed in November 1991 cannot therefore be taken to be barred by limitation. This contention of the respondents is also held to be without any merit and is rejected.

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9. The respondents have submitted that a similar matter is pending before the Principal Bench of the Tribunal. They have not indicated if the matter pending before the Principal Bench has since been disposed of and with what result. In view of this the present application cannot be kept pending till the disposal of the application by the Principal Bench.

10. As regards the first grievance, the respondents have pleaded that the applicants were given option under FR 23 to retain their old pay and designation, but all of them have opted to come over to the new scale of pay of Rs.950-1500/- and therefore they cannot agitate their grievance about change of their designation. Under FR 23 when pay of a post is changed the holder of the post will be treated as if he is transferred to a new post on the new pay, provided that he may at his option retain his old pay until he vacates his post or ceases to draw pay in that scale. From this it is clear that the applicants had the option to continue as Binders Grade-II in the old pay scale of Rs.950-1400/-. But at the same time because they have given their option to come over to the new scale of pay, their grievances with regard to the new designation and new post cannot be rejected out of hand.

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11. The applicants have stated that Bindery Assistants have all along worked under the supervision of Binders Grade-II or Binders Grade-I. The Binders are trained in handling sophisticated machines and Bindery Assistants have no knowledge of working in such machines and therefore clubbing both the cadres, Binders Grade-II and Bindery Assistants under one designation and same scale of pay is illegal. The respondents, on the other hand, have claimed that both Binders Grade-II and Bindery Assistants are required to know handling of machines in counting, folding, gathering, stitching, perforating, cutting and numbering. The respondents have also stated that bindery work can be done through machine or manually. The applicants have pointed out in the rejoinder that in the Text Book Press all binding work is done through machines only. It is difficult for the Tribunal to come to a finding with regard to the nature of job of Binders Grade-II and Bindery Assistants only from the pleadings of the parties. But the fact of the matter is that it has been admitted between the parties that earlier Bindery Assistants were promoted to the post of Binder Grade-II and this naturally involved assumption of higher responsibility and therefore it cannot be said that the work of Binders Grade-II and Bindery Assistants

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prior to merger was the same. Earlier Bindery Assistants were classified as Semi Skilled whereas Binders Grade-II were classified as Skilled. This also indicates that there was difference between the work of these two grades. But the Inter-Departmental Committee has classified both cadres as Skilled and given them the same scale of pay of Rs.950-1500/-. As an expert body has gone into this aspect, it will not be open for the Tribunal to come to a finding that the classification of erstwhile Binders Grade-II and Bindery Assistants as Skilled is incorrect. Both having been classified as Skilled have been given the same scale of pay and no fault can be found with that. So far as Binders Grade-II are concerned, they have been enblock placed senior to the erstwhile Bindery Assistants even after the Binders Grade-II have been redesignated as Bindery Assistants and thereby their prospect of promotion to the level of Binder Grade-I has not been adversely affected. Binders Grade-II have got a marginal increase in the pay scale and their chance of promotion has also not been adversely affected. Therefore the Inter-Departmental Committee having classified both Binders Grade-II and Bindery Assistants as Skilled category, the merger of the two categories cannot be found fault with. The only other aspect of the matter is that as earlier noted in order

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dated 12.10.1982 Government of India had rejected the prayer for increase in the ratio between Binders and Bindery Assistants to 75:25 but maintained the same and had ordered that the same should continue to be 50:50. After this redesignation and merger of Bindery Assistants and Binders Grade-II, the ratio between Binders and Bindery Assistants has become 10:90. In view of this, it is for the departmental authorities to consider if there is a need for upgrading certain posts of Binder Grade-II or presently Bindery Assistants to Binder Grade-I to introduce a higher ratio between Binders and Bindery Assistants which now stands at 10:90. Therefore, while rejecting the prayer of the applicants to quash the order of redesignation and merger of Binders Grade-II with Bindery Assistants, we direct the departmental authorities to consider upgradation of some of the posts of Bindery Assistants to that of Binders Grade-I. This exercise should be done by the respondents within a period of 120 (one hundred twenty) days from the date of receipt of this order. We make it clear that from the pleadings of the parties it does not appear on what ground the earlier ratio of 50:50 was sought to be changed by the employees to 75:25. The report of Inter-Departmental Committee is also not before us and therefore we are unable to know if this aspect has also been considered by the Inter-Departmental Committee and

if a view has already been taken. In view of this, we leave it to the departmental authorities to consider the matter and take a decision in this regard, without expressing any view about the need for increasing the ratio in favour of the Binders from the existing ratio of 10:90.

11. So far as the second prayer of the applicants is concerned, it is stated by the applicants that by the process of redesignation and merger with Bindery Assistants, Binders Grade-II have lost their parity with the Machine Assistants. The respondents have pointed out that Machine Assistants were earlier treated as Skilled. They continue to be classified as Skilled category and they have also been given the scale of pay of Rs.950-1500/- allowed to the applicants. The applicants are claiming parity with Machine Assistants (Offset) who have been given the pay scale of Rs.1200-1800/-. Earlier Machine Assistants (Offset) were treated as Skilled and were given the scale of Rs.950-1400/-. In accordance with the recommendation of the Inter-Departmental Committee, Machine Assistants (Offset) have been treated as Highly Skilled Grade-II and given the pay scale of Rs.1200-1800/- after redesignating the post as Offset Machine Assistant. The applicants have merely stated that as Binders Grade-II all along had the

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same pay scale as Machine Assistants, they should continue to enjoy the parity. We find from the pleadings of the respondents that the applicants even in their changed designation as Bindery Assistants are enjoying parity with Machine Assistants who are also Skilled category and are getting the same scale of pay of Rs.950-1500/-.. The Inter-Departmental Committee has created a separate group of Highly Skilled Grade-II Offset Machine Assistants taking into account the technical requirement of the job, the qualification for appointment, etc. It has been stated that the educational qualification for the post of Offset Machine Assistant by direct recruitment is Matriculation or equivalent with Science whereas the minimum educational qualification for the post of Machine Assistant or Bindery Assistant is Middle School pass for direct recruitment. In consideration of the above, we hold that the applicants cannot claim equality in pay scale with Offset Machine Assistant. The parity of Binder Grade-II, now redesignated as Bindery Assistant, has been maintained with Machine Assistant. This prayer of the applicants is also held to be without any merit and is rejected.

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12. In the result, the Original Application is disposed of in terms of the observation and direction given above but without any order as to costs.

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(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
16.9.99

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