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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O. A. No. 630 OF 1993.

Chandan Majumdar and others ... Applicants
Vrs.
Union of India & Others ... Respondents

Cuttack this the 20th day of July, 1995.

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? No.
2. Whether it be circulated to all the Benches of the No.
Central Administrative Tribunals or not?


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

20 Jul 95

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 630 of 1993

Cuttack this the 20th day of July, 1995.

CORAM:

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

1. Chandan Majumdar,
S/o. P. Majumdar,
presently residing at
Qr. No. 132/7, Defence Colony,
Indira Gandhi Road, Balasore.
2. Smt. Shushamarani Patra,
W/o. Santosh Kumar Das,
presently residing at
Qtr. No. 54/1, Type-II,
Defence Colony, Indira Gandhi Marg,
Balasore.
3. Pradip Prabhakar Pachankar,
S/o. P. K. Pachankar,
presently residing at
Qr. No. P/114/4,
Interim Test Range Colony,
Defence Complex, Indira Gandhi Road,
District-Balasore.

... Applicants

By the Advocate

... Mr. Biswajit Mohanty.

Versus

1. Union of India represented through
Secretary to Govt. of India,
Ministry of Defence, South Block,
New Delhi.
2. Deputy Secretary to Govt. of India,
Ministry of Defence, South Block,
New Delhi.
3. The Scientific Advisor and Director General,
Research and Development,
Defence Research and Development Orgn.
South Block, New Delhi.
4. Assistant Director (Personnel),
Research and Development Orgn.
Ministry of Defence, 'B' Wing,
Sena Bhawan, New Delhi.
5. Officer In-charge,
Confidential Cell,
Proof and Experiment Establishment,
Chandipur, Balasore.
6. Senior Administrative Officer,
Interim Test Range, Chandipur,
Balasore.

7. Commandant,
Proof and Experimental Establishment,
Chandipur, Balasore.

8. Director,
Interim Test Range,
Chandipur, Balasore.

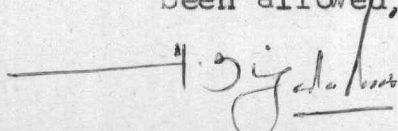
... Respondents

By the Advocate ... Mr. Ashok Mishra, Senior Standing
Counsel (Central).

ORDER

H. RAJENDRA PRASAD, MEMBER (ADMN.) : The Third Pay Commission recommended three different pay-scales- of Rs. 550-900/- to Senior Scientific Assistants, Rs. 700-900/- to Chief Draftsmen and Rs. 840-1040 to Foremen of Defence Research and Development Organisation in the Ministry of Defence from 1st January, 1973. This recommendation resulted in certain disparities of pay among three categories of officials discharging identical responsibilities. The matter was therefore referred to an Arbitration Board. In August, 1985, the Arbitration Board accepted the contention of the Senior Scientific Assistants and approved the scale of Rs. 840-1040 for them. The award came into effect from 22nd September, 1992.

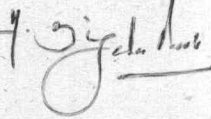
2. The Fourth Pay Commission recommended the scale of Rs. 2375-3500 to Foremen while the Senior Scientific Assistants were given Rs. 1640-2900. This was evidently based on the pay-structure resulting from the recommendations of the earlier pay commission. The Government, however, decided that the Senior Scientific Assistants shall be fitted into Rs. 2375-3500 scale because they had already been allowed, in the meanwhile, Rs. 840-1040 scale by the



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Arbitration Award. However, it was also decided to restrict the scale of Rs. 2375-3500 to only 49% of the Sr. Scientific Assistants. It was made clear that the conferment of Rs. 2375-3500 to this 49% segment of Sr. Scientific Assistants did not confer any promotion on them but constituted only an upgradation of their pay: their designation remained unaltered, no new posts were created for them, they continued to perform the same duties as before and continued to be eligible for consideration, - along with the rest of the 51% Senior Scientific Assistants in lower scale, - to the same promotional posts of Junior Scientific Officers in Group 'B'.

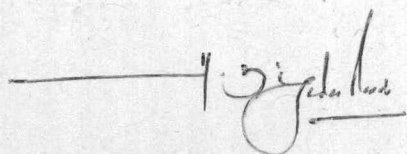
3. In February, 1993, the Respondents published a seniority list of Senior Scientific Assistants. In it, the present applicants were shown at serial numbers 805, 806 and 825. However, many of the Senior Scientific Assistants who were junior to the applicants (in the 807 to 1080 range of serial numbers) in the lower scale of 51% group were seen to have been given the higher scale meant for the other (49%) group. The applicants represented to the Government for rectification of this apparent anomaly. The representations were rejected on the ground that the juniors who were given the higher scale got the benefit because they belonged to reserved (scheduled) communities/tribes.



4. The applicants in this case pray for the quashing of the orders contained in AON No.PEE/CC/1/26/AP/CORR dated 10th June, 1993, and ION No.ITR/ADMIN/5278/1 dated Nil, rejecting the request , respectively, of Applicants 1,2 and Applicant 3.

5. All the issues involved in this case have already come in for detailed scrutiny by the Bangalore and Hyderabad Benches of the Tribunal, in respect of similarly placed officials who entertained like grievances based on the same facts. In OAs 458-500/1990, the Bangalore Bench issued the following directions :-

- "1. We hold that the application of the roster providing reservation for SC/ST to the placement of SSAs in the upgraded posts carrying higher pay scale is unwarranted and without authority of law.
2. We direct the respondents 1 to 3 to adhere to the seniority list prepared as per Annexure-C dated 7.3.1989 for placement of SSAs in the upgraded posts carrying higher pay scale on the basis of seniority subject to the rejection of the unfit from amongst SSAs with atleast three years regular service in the grade.
3. The placement of respondents 4 to 25 in the upgraded posts in the higher pay scale is left undisturbed and those respondents need not be reverted on the ground that they came to be placed in the upgraded posts by wrong application of the roster prescribing reservation for SC/ST.
4. If any of the applicants have, since the date of filing of these applications, been placed in the upgraded posts with higher pay scale then placement in the



upgraded posts shall be worked out from the date on which their immediate junior in the seniority list Annexure-C dated 7.3.1989 came to be placed and those applicants will be entitled to consequential benefits like higher pay scale from that date.

5. If the applicants have not since the date of filing these applications been placed in the upgraded posts with higher pay scale, respondents 1 to 3 shall consider the cases of the applicants for placement in the upgraded posts as per direction No.2 given above. If the number of posts upgraded which are 822, fall short for accommodating these applicants for placement in the upgraded posts, respondents 1 to 3 shall upgrade sufficient number of more posts to accommodate the applicants herein if they are found fit for being placed in the upgraded posts carrying higher pay scale. The applicants on such placement in the upgraded posts, shall be entitled to consequential benefits like higher pay scale with effect from the date their immediate junior in the seniority list as per Annexure-C came to be placed."

In OAs 1032/92 and 109/93, the Hyderabad Bench of the Tribunal agreed with the view of the Bangalore Bench and issued suitable directions based on the same ratio.

The judgment and order of Bangalore Bench, which were carried in SLPS to Hon'ble Supreme Court, were dismissed.

6. The facts and circumstances of the above OAs squarely cover the present OA. The directions issued in those cases are, fully applicable to this OA, as well.

— H. G. J. S.

7. While quashing Annexures 7 and 8 to the Original Application, it is directed that the applicants S/Shri Chandan Majumdar, P.P.Pachankar and Ms.Sushma Rani Patra, Senior Scientific Assistants, Proof and Experimental Establishment, Chandipur, shall be placed, if otherwise eligible and fit, in the higher scale of pay in the upgraded scale from the date(s) on which their immediate juniors in the seniority list of Senior Scientific Assistants published by the Respondents on 2.2.1993 were so placed. This action shall be completed in 60(sixty) days from this day. Consequential monetary benefits arising from this placement shall be calculated and disbursed the applicants within 60(sixty) days thereafter.

Thus, the Original Application is disposed of.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

20 Jun 95

K.N. Mohanty.