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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

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ORIGINAL APPLICATION NO.586 OF 1995
Cuttack, this the 26th day of September, 2000

Pranabandhu Kar and another ... Applicants

Vrs.

Union of India and another 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,
(SOMNATH SOM)
VICE-CHAIRMAN
26.9.2000

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CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 586 OF 1995
Cuttack, this the 26th day of September, 2000

CORAM:

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

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1. Pranabandhu Kar, T.No.851, Helper, Proof & Experimental Establishment, Chandipur, Balasore.
 2. Manik Kumar Das, T.No. 847, Helper, Proof & Experimental Establishment, Chandipur, Balasore
- Applicants
-

Advocates for applicants - M/s B.K.Sahoo
K.C.Sahoo

Vrs.

1. Union of India, represented by Scientific Advisor to the Ministry of Defence & Director General, Research & Development, Defence Research & Development Organisation, Ministry of Defence, New Delhi-110 011.
 2. Commandant, Proof & Experimental Establishment, Chandipur, Balasore
- Respondents
-

Advocate for respondents - Mr.A.K.Bose
Sr.C.G.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

S. Som.

In this application the two petitioners have prayed for quashing the order dated 1.3.1995 (Annexure-4) rejecting their representations and for a direction to the respondents to give them Special Pay/Revised Pay made for ammunition duty since the date of their appointment.

2. The applicants have stated that they were appointed as Helpers in 1987 in Proof & Experimental Establishment, Chandipur. Ammunition Wing

involves the work of heavy duty with hazardous work for which all the employees engaged in the ammunition duty were given Special Allowance of Rs.10/- in addition to their usual pay scale prior to 1985. The applicants have stated that they were engaged as Helpers in the year 1987 under Commandant, Proof & Experimental Establishment, Chandipur (respondent no.2). Prior to Third Pay Commission the Helpers were in the scale of Rs.196-232/- and those who were engaged in ammunition duty were getting special pay of Rs.10/-. In order dated 6.11.1985 all those labourers who were in receipt of special pay of Rs.10/- and were employed in ammunition duty were granted the revised scale of Rs.210-290/-. The applicants were appointed after this. But they were neither given the special pay nor the revised scale of Rs.210-290 though they were continuously working in Ammunition Wing. They have filed representation which was rejected in the impugned order at Annexure-4. They have further stated that those labourers who were earlier engaged in ammunition duty and enjoying the special allowance of Rs.10/- and were brought over to the new pay scale of Rs.210-290/-, are enjoying the higher pay scale ^{even} ~~ent~~ though they are no longer engaged in ammunition duty. In the context of the above facts, they have come up with the prayers referred to earlier.

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3. The respondents in their counter have pointed out that the new pay scale for Helpers who were engaged on Ammunition/Heavy Duty and on receipt of special pay, was introduced with effect from 16.10.1981. They have stated that engagement of Helpers on Ammunition/Heavy Duty is determined on the basis of

seniority and physical fitness by a Board of Officers convened for the purpose based on technical necessity for such engagement as and when arises. They have stated that the applicants were recruited and posted to Ammunition and Range Wing on 14.9.1987 and 27.7.1987 respectively, but they were not engaged on Ammunition/Heavy Duty. The respondents have stated that the applicants cannot claim by self declaration that they were attending the job of handling Ammunition/Heavy Duty unless they were considered by the Board of Officers and were found fit for being entrusted with such work. It is further stated that it is incorrect to state that all the employees of Ammunition Wing were earlier paid the Special Pay. After introduction of the new scale only such of the Helpers who were getting the special pay were brought over to the new scale of Rs.210-290/- with effect from 16.10.1981. The Special Pay is no longer in existence after introduction of the new scale and therefore the claim of the petitioner is without any basis. They have also stated that the labourers with Ammunition Duty and who were getting special pay were designated as Semi-skilled under the recommendation of the Expert Classification Committee and accordingly they were brought over to the new scale. The special pay having been abolished with effect from the date of introduction of the new scale and the applicants having joined much after that they cannot claim Special pay. On the above grounds, the respondents have opposed the prayer of the applicants for giving them higher scale of pay.

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4. The applicants in their rejoinder have stated that there is no rule that a Board of Officers will assess the suitability of a Helper before he is entrusted with Ammunition/Heavy Duty. They have also enclosed at Annexure-6 an order showing that both of them have been posted to Ammunition Wing. On that basis the applicants have reiterated their prayer in the rejoinder.

5. We have heard Shri R.K.Sahu, the learned counsel for the petitioners and Shri A.K.Bose, the learned Senior Standing Counsel for the respondents and have also perused the records.

6. The first prayer of the applicants is for giving them Special pay of Rs.10/-. The respondents have pointed out that special pay has since been abolished much prior to the initial appointment of the applicants under the respondents and therefore the applicants cannot claim special pay. In any case the respondents have stated that though the applicants are working in the Ammunition Wing they are not engaged in Ammunition/Heavy Duty. This prayer of the applicants is accordingly rejected.

7. As regards the second prayer for giving them the scale of Rs.210-290/- , the respondents have pointed out that Expert Classification Committee had classified Helpers/Labourers engaged in Ammunition/Heavy Duty as Semi-skilled and that is why they were brought over to the scale of Rs.210-290/- and the special pay of Rs.10/- given to them was abolished. This was done in

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respect of existing Helpers who were doing Ammunition/Heavy Duty and were getting special pay of Rs.10/-. Besides stating that they are engaged in Ammunition Duty, the applicants have not given any document that they are engaged in Ammunition Duty. The respondents have admitted that the two applicants are working in Ammunition Wing but have stated that they have not been given Ammunition/Heavy Duty. In view of this, just because the applicants are working in the Ammunition Wing, they cannot claim that they would get the scale of pay of Rs.210-290/- or its replacement scale which is meant for semi-skilled workers, as indicated above.

8. The third point made by the applicants is that those Helpers who were earlier getting special pay and were engaged on Ammunition Duty and were accordingly brought over to the new scale, continue to enjoy the higher scale of pay even though they were transferred to duties other than Ammunition Duty. No illegality is involved in this because once such labourers have been given the higher scale because of their being engaged on Ammunition Duty and because of their enjoyment of Special Pay of Rs.10/-, they would naturally continue to get the higher scale of pay even after they are transferred to duties other than Ammunition Duty.

9. In consideration of all the above, we hold that the Application is without any merit and the same is rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
26.9.2000