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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 697 OF 1995
Cuttack, this the 24th day of May, 1996

Binod Chandra Nayak & others Applicants

-versus-

Union of India & another Respondents

FOR INSTRUCTIONS

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


(N. SAHU)
MEMBER (ADMINISTRATIVE)

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CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 697 OF 1995
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CORAM:

HONOURABLE SHRI N.SAHU, MEMBER(ADMINISTRATIVE)

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1. Binod Chandra Nayak,
son of late Kalu Nayak
2. Raghunath Ho,
son of late Kaira Ho
3. Ramesh Chandra Nayak
son of late Sarbeswar Nayak
4. Uttam Chandra Sahoo
son of late Dinabandhu Sahoo

All are working as Technical Operators (Workshop)
in the office of the Deputy Director (Gen)
Geological Survey of India, Operation, Orissa
Nayapali, Unit-VIII, At/P.O-Bhubaneswar,
Dist. Khurda

... Applicants

By the Advocates - M/s H.M.Dhal, A.A.Das &
B.Mohanty.

-versus-

1. Union of India, represented through
Director General,
Geological Survey of India,
17, Jawaharlal Nehru Road,
Calcutta-700 016

2. Deputy Director Gen.,
Geological Survey of India,
Eastern Region,
12, A.B. Russel Street,
Calcutta-700 071

... Respondents

By the Advocates - M/s Akhaya Ku.Misra &
B.N.Mohanty.

...

O R D E R

SAHU, MEMBER (ADMN.)

In this application the prayer is to direct the Respondents to accord pay scale of Rs.975-1540/- to the applicants with effect from 1.1.1986. Brief background leading to the dispute is that the applicants were initially appointed as Technical Operators in Geological Survey of India, Orissa Circle, Bhubaneswar, in the month of November 1978 in the pay scale of Rs.210-290/-. The post held by the applicants was earlier known as Technical Attendant which was a Group 'D' post. Other Group 'D' posts were Section Cutter, Laboratory Attendant and Carpenter Grade-III. pay Section Cutter in the scale of Rs.210-290/- and Technical Attendant and Laboratory Attendant in the pay scale of Rs.210-270/- were declared as Group 'C' (Technical) and re-designated as Technical Operator with effect from 20.12.1980. The un-revised pay scale of Messenger, Cleaner and Safaiwala was Rs.196-232/-. The unrevised pay scale of Carpenter Grade-III was Rs.210-290/-. These were revised respectively as Rs.750-940/- and Rs.800-1150/- with effect from 1.1.1986. The unrevised pay scale of Rs.260-400/- of the lowest Group 'C' post has been revised to Rs.975-1540/- with effect from 1.1.1986. The applicants demanded Group 'C' scale. They were promised that their demands would be considered by the Fourth Pay Commission. But the fact of upgradation of Section Cutter, Technical and Laboratory Attendants to Group 'C' was not placed before the Fourth Pay Commission. Consequently, the Commission was under the impression, it is stated by the applicants, that the

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posts continued under Group 'D' service. The applicants were designated as Group 'C'. Therefore, they are entitled to pay scale of Rs.975-1540/- with effect from 1.1.1986, it is claimed. It is also claimed that one Sri Ranjit Kumar Poddar, Technical Operator, whose unrevised scale of pay was Rs.210-270/- has been given pay scale of Rs.975-1540/- instead of Rs.800-1150/- which has been given to the applicants although Shri Poddar is similarly situated as the applicants.

2. Learned counsel for the Respondents urged that this very matter has been dealt with by the Bangalore Bench of this Tribunal in O.A.Nos.1153 to 1164 of 1988 (Shri T.S.Ravindra and others v. Union of India and others) decided on 17.3.1989. The Bangalore Bench dismissed the applications in a similar case on the ground that no injustice had been caused to the applicants in assigning them the revised pay scale in the posts of Technical Operators. It held that the matter of equivalence of posts and pay scales should be left to the sound judgment of expert bodies like Pay Commission. The Courts and Tribunals are ill-equipped to resolve this dispute. They relied on the decision of the Supreme Court in the State of Uttar Pradesh & others v. T.P.Chaurasia and others, reported in AIR 1989 SC 19. This very matter came up before me in another case, O.A.No.507 of 1995 (Asit Baran Jena and four others v. Union of India and another) decided on 10.4.1996. In that case, Shri Akhaya Misra, learned counsel for the Respondents, brought to my notice the decision of the Full Bench of the C.A.T. in O.A.No.142 of 1991 (Geological Survey of India Employees).

Association and others v. Union of India and others)

delivered on 3.1.1995. The Full Bench held that now that the Fifth Pay Commission has been constituted it would be fit and proper for referring the case of the applicants to this Commission for granting them the minimum pay scale of Group 'C' employees. The Full Bench directed the Respondents to make such reference.

The Full Bench held that O.A.No.177 of 1994 (Bhagabat Behera and another v. Union of India and others) was not correctly decided by the Cuttack Bench of C.A.T. While overruling the decision of the Cuttack Bench, it affirmed the decision of the Bangalore Bench. In a similar case I have held that when the Fifth Pay Commission is seized of the matter pertaining to the claims of the applicants, it will be inappropriate to decide the matter, particularly when the Cuttack Division Bench decision has been overruled by the Full Bench. The Full Bench decision is binding on me.

I have held that the dismissal of the S.L.P. against the Cuttack Bench decision does not mean reversal of the Full Bench decision. The dismissal of the S.L.P. is not a decision on merits. I have held that the Cuttack Bench decision which attained finality is not to be followed in rem with regard to other persons in other cases and this does not amount to laying down law under Article 141 of the Constitution. When the Full Bench had referred the matter of alleged ambivalence of posts and pay or discriminatory pay scale,

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it is appropriate to await the finding of the Pay Commission on this issue.

3. In the result, the Application is dismissed.

Charesimha Sahu
(N.SAHU) 20/5/96
MEMBER (ADMINISTRATIVE)

A.Nayak, P.S.