

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

O.A. NO. 94/1995.

1. Satyanarayan Mohapatra, Equipment Section.
2. Ashok Kumar Ashe, NAD.
3. Kedarnath Das, Proof Wing,
4. Dinabandhu Rout, Instrument wing,
5. Suresh Chandra Pradhan, A.P. Wing,
6. Harekrushna Lenka, Range wing,
7. Amitav De, Range wing,
8. Gayadhara Jena, Instrument wing,
9. Sarbaranjan Mandal, M. T,
10. Manoranjan Mishra, T.F. wing,
11. Solai Soren, General Store,
12. Binod Bihari Das, workshop,
13. Golak Chandra Patra, workshop,
14. Paresh Kumar Taldi, A.P. wing,
15. Soma Kajur, Equipment wing,
16. Harish Chandra Masanta, Library (T.S.I.C),
17. Madhusudan Nayak, General Store,
18. Swapna Kumar Jena, Equipment wing,
19. Girish Chandra Sethi, Equipment wing,
20. Brundaban Soren, Transit Section,
21. Nirmal Kumar Jethi, Inspection Cell.

All of Proof and Experimental Establishment,  
Chandipur, Balasore.

.... APPLICANTS.

By legal practitioner: M/s. B. K. Sahoo, K. C. Sahoo, Advocates.

- VERSUS -

1. Union of India, represented by Secretary  
to Ministry of Defence, New Delhi-110001.

2. Scientific Adviser to the Ministry of Defence and Director General Research and Development organisation, Ministry of Defence, DHQ, New Delhi-11.
3. Commandant, Proof and Experimental Establishment, Chandipur, Balasore.

... RESPONDENTS.

By legal practitioner : Mr. U. B. Mohapatra, Additional Standing Counsel (Central).

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O.A. NO. 113/1995.

1. Natabar Maharaj, Tradesman.
2. Srikanta Panda, Tradesman 'C', Machinist.
3. Gabril Toppo 'C', Tradesman, Tractor Mechanic.
4. Marsuram Majhi, Tradesman 'C', Diesel Mechanic.
5. Brajamohan Das, Turner, Tradesman 'C'.
6. Abhimanyu Rana, Tradesman 'C' (Fitter).
7. Bijay Kumar Das, Tradesman 'C', Diesel Mechanic.

All of Proof and Experimental Establishment, Chandipur, Balasore.

... PETITIONERS.

By legal practitioner: M/s. B. K. Sahoo, K. C. Sahoo, Advocates.

*SSM*  
-VERSUS-

1. Union of India represented by Secretary to Ministry of Defence, New Delhi-110001.
2. Scientific Adviser to the Ministry of Defence and Director General Research and Development organisation, Ministry of Defence, DHQ, New Delhi-11.
3. Commandant, Proof and Experimental Estt. Chandipur, Balasore.

... RESPONDENTS.

By legal Practitioner: Mr. A. K. Bose, Sr. Standing Counsel.

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O.A.NO. 242 OF 1995.

Chandrakanta Behera (Book Binder)  
S/o. Sanyashi Behera,,  
At-Badakhuna, PO : Sunhat,  
Dist: Balasore. ... Applicant.

By legal practitioner: M/s.B.K.Sahoo,  
K.C.Sahoo,  
Advocates.

- Versus -

1. Union of India represented through its Secretary to Ministry of Defence, New Delhi-1.
2. Scientific Adviser to the Ministry of Defence and Director General Research and Development Orgn., Ministry of Defence, DHQ, New Delhi-1.
3. The Director, Interim Test Range, Chandipur-25, Balasore. ... Respondents.

By legal practitioner: Mr.A.K.Bose, SR. SC.

...

O.A.No. 26 of 1996.

1. Shri Achinta Kumar Sahu,  
T.No.829,  
S/o. Late Jayanarayan Sahu,  
At: Sueipur, Motiganj,  
Balasore.

2. Jitendranath Rout,  
S/o. Mahendranath Rout,  
At/Po: Suittal, Balasore.

3. Guhi Manjhi, T.No. 933,  
P&EE, Chandipur, Balasore.

4. Sunil Kumar Nayak, T.No. 934,  
P&EE, Chandipur, Balasore.

By legal practitioner: ... Applicants.

M/s.B.K.Sahoo,  
K.C.Sahoo,  
Advocates.

- Versus -

1. Union of India represented by Secretary to Ministry of Defence, New Delhi-1.

2. Scientific Adviser to the Ministry of Defence and Director General Research and Development Orgn., Ministry of Defence, DHQ, New Delhi-11.
3. Commandant, Proof and Experimental Estt., Chandipur, Balasore.

... Respondents.

By legal practitioner: Mr. A. K. Bose, SSC.

C O R A M :

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN.

A N D  
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDL.).

CUTTACK, this the 26th day of July, 2000.

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

These four applications have been heard separately but the applicants are almost similarly situated. They have filed identical petitions with identical prayers. Respondents, who have filed identical counters, in these four cases, have opposed the prayers of applicant on identical grounds. Point which arises for consideration is the same and therefore, one order will cover these four cases. But the facts of these four cases are being listed out separately.

2. 21 applicants in Original Application No. 94/95 have been appointed under Proof and Experimental Establishment, Chandipur, under Respondent No. 3 on different dates ranging from 4-10-1985 to 7-5-1992. They were appointed in different

trades like moulder, Pattern Maker, Mill weight Mechanic etc. as tradesman 'E'. Their case is that on the date of appointment, they had possessed National Apprenticeship Certificate Course and had the qualification for being appointed as Tradesman 'C'. But actually, they were given appointment as Tradesman 'E'. They have stated that Respondents have, as one time measure, extended the benefit of upgradation of semi-skilled Tradesman to skilled category w.e.f. 15-10-1984 on the basis of different decisions of the CATs, Larger Bench of the CAT, Bangalore as also the decision of the Hon'ble Supreme Court. These decisions governed the case of the applicants. They have also stated that their case is covered by the decision of the Hon'ble Supreme Court in the case of BHAGAWAN SAHAY AND OTHERS VRS. UNION OF INDIA AND OTHERS reported in AIR 1989 SC 1215. Therefore, claiming upgradation of their posts to Tradesman C from the date of their joining, they have filed representation but without any result, and that is why, they have come up in this original Application with the prayer that the Respondents be directed to allow upgradation facility to them to the post of Tradesman C from the date of their initial appointments alongwith consequential benefits.

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3. 7(Seven) applicants in OA No. 113/1995 have been appointed as Tradesman E under the Commandant, Proof and Experimental Establishment, Chandipur, Respondent No. 3 on different dates ranging from 28.1.1987 to 21.3.1990. They have stated that at the time of their appointments, all of them had the necessary qualifications and experience for being appointed as Tradesman C and the benefits of upgradation of persons working as Tradesman E, on 15.10.84 to tradesman C as one time measure should also be allowed to them. They have

referred to the decision of the Tribunal as in the earlier case and have come up with the same prayers as applicants in OA No.94 of 1995.

4. The applicant ,Chandrakanta Behera, in OA No. 242/95 was appointed as Bookbinder in Tradesman E grade on 25.5.1990. He has made similar averments as in the case of applicants in earlier two cases and has come up with the same prayers.

5. In OA No.26/96 ,four applicants have been appointed as Tradesman E under Commandant Proof and Experimental Establishment,Chandipur, Respondent No.3 on different dates ranging from 23.12.1986 to 25.5.1993. They have made similar averments as in the case of applicants in other OAs and have come up with the same prayers.

6. Respondents have filed identical counters in these cases opposing the prayers of applicants.

7. It would, therefore, be adequate,if the averments made by the Respondents in one of the counters, are taken note of. In the counter filed by the Respondents in OA No.26/96, it has been stated that prior to 3rd Pay Commission, there was no classification of Industrial Staff in the Defence Establishment. The 3rd pay Commission recommended for setting up an expert Body for the proper classification of expert jobs. Accordingly, an expert classification Committee headed by a retired Judge of Allahabad High Court was set up in october,1974 and the report was submitted in January,1979. The Committee recommended 9(nine) pay scales for the Industrial Joos as against the 5 (five) pay scales contemplated by the 3rd Pay Commissions.

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Government, thereafter, constituted a Departmental Committee called Committee on common category jobs which recommended five pay scales as per the 3rd Pay Commission's recommendations. These scales were Rs.196-232/-, Rs.210-290/-, Rs.260-400/-, Rs.332-480/- and Rs. 380-560/- .Because of subsequent developments the trades were devided into five categories i.e. from Tradesman A to Tradesman E. An Anomaly committee was constituted to go into certain anomalies out of implementation of five pay scales from 16.10.1981. On the basis of the report of the Anomaly committee, certain trades were upgraded as a skilled grade from 15.10.1984. Basing on this order of upgradation, dated 15.10.1984, which is at Annexure-1. Of these four original Applications, several cases also were filed before the Hyderabad and Bangalore Bench of the Central Administrative Tribunal. The matter also went to the Full Bench of the Tribunal in OA No.111/91 decided on 18.6.1993. Basing on these decisions, Government of India issued orders dated 17.11.1993 in which as an one time measure, all tradesman E existing as on 15.10.1984 were upgraded to Tradesman C. This order dated 17.11.1993, is at Annexure-R/1 of OA No.94/95. Respondents have stated that applicants in OA No.26/96 and all the applicants in other OAs have joined after 15.10.1984 and therefore, they have no claim of upgradation to the category of Tradesman C. They have also stated that Hyderabad Bench of the CAT in their order dated 23.8.1999 in OA No. 363/88 have held that those Tradesman E who have been appointed after 15.10.1984, can be promoted only in accordance with the Recruitment Rules. On the above grounds, the Respondents have opposed the prayers of the applicants.

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8. we have heard Mr.B.K.Sahoo, learned counsel for the applicants and Mr.U.B.Mohapatra, learned Additional Standing Counsel in OA No. 94/95 for the Respondents and Mr.A.K.Bose, learned Senior Standing Counsel appearing for the Respondents in other three OAs and have also perused the records. Copies of various decisions of other Benches of the Tribunal including full Bench decision have been filed by learned counsel for both sides.

9. Learned counsel for the applicants has referred to the decision of the Hon'ble Supreme Court in the case of BHAGAWAN SHAHY (Supra). There, the Hon'ble Supreme Court considered the circular dated 15.10.1984 (Annexure-1 to OA No. 94/95) in which 11 jobs were upgraded from Semi skilled (Rs. 210-290/-) to skilled grade (Rs. 260-400/-) w.e.f. 15.10.1984. In Bhagawan Shahy's case, the petitioners before the Apex Court made a grievance that while certain categories of employees in different trades have been upgraded giving them higher scale of pay from an earlier date members of other trades have been upgraded from a later date and their observations that this violates equality clause was upheld by the Apex Court. This upgradation based on fitment of tradesman in five grades from 16.10.84. In Bhagawan Shahy's case two categories of persons those who were given upgradation from an earlier date and the applicants before the Apex court were both holding the lower post at the same time. This is not the case here. Therefore, this decision of the Apex Court has no application to the facts of these OAs. However, the applicants in these four applications as we have already noted joined service much after 15.10.1984. The recruitment rule for

different categories of Tradesman were amended w.e.f.

7.3.1981 and applicants have joined much after this date in the grade of Tradesman E. The automatic upgradation of tradesman E to Tradesman C was allowed as an one time measure in order to give effect to various decisions of the Tribunal only in respect of those Tradesman E who are in position as on 15.10.1984. In these cases, applicants have admittedly joined much after 15.10.1984, in accordance with the Recruitment Rules, which came into force on 7.3.81. They have accepted the appointments as Tradesman E and thereafter because of they are having qualifications of tradesman C, they can not claim that their posts should be upgraded to the post of Tradesman C. We also note that the very same point came up for consideration before the Bangalore Bench in OA Nos. 886, 984 to 991/1994 and the Bangalore Bench of the CAT in their order dated 21.9.95 rejected the prayer on the sole ground that the applicants before them were not in position as Tradesman E as on 15.10.1984. On the same logic and on the same ground, we hold that the applicants in these OAs having joined as Tradesman E much after 15.10.1984 as mentioned by us earlier, are not entitled to be upgraded to Tradesman C from the date of their initial appointments as Tradesman E.

10. In the result, these original Applications are dismissed. There shall be no order as to costs.

Sd/- G. Narasimham  
Member (Jud)

KNM/CM.

Sd/- Somnath Som  
Vice-Chairman

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Section of  
Central Adjudicating Tribunal,  
Cuttack Bench, Cuttack.