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CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH: CUTTACK.

Original Application No.12 OF 2005
Cuttack, this the 23rd day of December, 2005.

KAILASH CHANDRA DAS & OTHERS. APPLICANT

Versus

UNION OF INDIA & Ors. RESPONDENTS

FOR INSTRUCTIONS

s. Whether it be referred to the reporters or not? *yes*

2. Whether it be circulated to all the Benches of CAT or not? *yes*


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(K.N.K. KARTHIAYANI)
MEMBER (ADMN.)

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CORAM:

**THE HON'BLE MR.M.R.MOHANTY, MEMBER(JUDICIAL)
AND
THE HON'BLE SMT.K.N.K.KARTHIAYANI, MEMBER(ADMN.)**

1. Shri Kailash Chandra Das, Aged about 56 years,
Son of Late K.K.Das, At/Po:Debidwar,Dist.Jajpur.
2. Sri Radhashyam Mohanty, Aged about 49 years,
Son of Late Maheswar Mohanty, At-Nasirabad,
PO: Haridaspur, Dist.Balasore.
3. Sri Nirmal Sarkar, Aged about 54 years,
Son of Late Prakash Sarkar, House No.A/E-31,
Virasurendrasai Nagar, Vanivihar,
PO- Saheed Nagar,Bhubaneswar,Dist.Khurda.
4. Sri Siba Charan Sabar, Aged about 50 years,
Son of Late K.C.Sabar, Plot No.337/A,
Gajapati Nagar, Po: Sainik School,
Bhubaneswar, Dist. Khurdas.
5. Sri Subarna Keshari Ray, aged about 57 years,
Son of late Gouira Ch. Ray, At/Po: Patia, Khurdas.
6. Sri Biswanath Dey, aged about 52 years, son of late Baidyanath
Dey, At/Po: Gazipur, Dist. Hawara, Kolkata, West Bengal.

(All the Applicants at present are serving as Offset Machine Man
in the office of the Manager, Government of India, Text Book
Press, PO- Mancheswar, Bhubaneswar-17, Dist., Khurda).

..... APPLICANTS.

For the Applicant : M/s.K.C.Kanungo,S.Behera,C.Padhi,
B.Das, Advocates.

VERSUS

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1. Union of India, represented through its Secretary, Ministry of Urban Affairs Development, 'B' Wing Nirman Bhawan, New Delhi-11.
 2. Secretary, Govt. of India, Ministry of Finance, New Delhi.
 3. Director of PRINTING, Ministry of Urban Affairs Development 'B' Wing, Nirman Bhawan, New Delhi-11.
 4. Manager, Government of India, Text Book Press, PO-Mancheswar, Railway Colony, Bhubaneswar-17, Khurda.

..... **RESPONDENTS.**

For the Respondents: M/s. A. Kanungo, ASC.

ORDER

SMT.K.N.K.KARTHIAYANI, MEMBER(ADMN.)

The 6 (Six) Applicants in this case are working as Off Set Machine Man in the Office of the Manager, Government of India, Text Book Press, Mancheswar, Bhubaneswar; which is under the Director of Printing, Ministry of Urban Development Department. They were promoted to the next higher grade between 1985 and 2001. Their grievance is that similarly placed officials in the Ministry of Finance, who are designated as Senior Operators have been given higher replacement scale as per the recommendations of the 5th Py Commission. In the Department of Posts, their counter parts (termed as

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Machine man Gr.-I) are in the pay scale of Rs. 5000-150-8000/- . The pre-revised scale of the Applicants was Rs. 1400-2300/-; for which the replacement scale was Rs. 4,500-7,000/- . The 5th Pay Commission in their recommendation in Para-66.51 (in respect of employees "Bank Note Press, Dewas") had recommended that the Senior Operators who are presently in the scale of Rs. 1400-2300/- may be placed in the scale recommended by them in the replacement scale of Rs. 1600-2660/- . The replacement scale for Rs. 1600-2660/- in the 5th Pay Commission recommendation was Rs. 5,000-8,000/- . Aggrieved of this partial treatment, they had submitted identical representations to the Director of Printing (Res. No. 3) on 17-05-2004. The said representations were rejected by the Respondent-Department vide OM dated 05-08-2004. The Applicants have also submitted another representation on 13-09-2004 but the Respondents have maintained "golden silence" on the issue.

2. To support the claim, the Applicants have stated that on the 4th Pay Commission recommendation, the Ministry of Finance (Implementation Cell) had set-up Inter-Departmental Committee (IDC in short) to re-classify and remunerate various jobs in the presses. On the basis of the recommendations of the IDC, an OM was issued on 31-10-1989 classifying the posts under seven broad heads prescribing different pay scales. The Applicants fall under the

category 'Master Crafts Man'; for which the pay scale was Rs. 1400-2300/- Based on this OM, Ministry of Urban Development rationalized the various posts in Printing Presses vide OM dated 20-11-1992 by which the post of Off Set Machine Man Gr.-I (pay scale of Rs. 2350-2200/-) was re-designated as Off Set Machine Man (pay scale of Rs. 1400-2300/-). Their existing classification was also changed from "highly skilled" to "Master Craftsman". Applicants grievance is that though the 5th Pay Commission also had constituted IDC-95 to make an in-depth study of the pay structure and other related aspects of the Printing Staff working in different Ministries and Departments of Government of India, the recommendation of the Commission was manifestly erroneous as appears in its report at para 55.205. The Off Set Machine Men in other Press under the Ministry of Communication, Security Printing Press of Hyderabad and Bank Note Press Dewas and Budget Press were equated with the higher pre revised scale of Rs. 1600-2660/- and they were given the revised pay scale of Rs. 5000-8000/- The designation of Machine Man is changed as Senior Operator in the Presses under the Finance Ministry (Respondent No.2). The Recruitment, qualification etc. of Machine man working in the Off Set Presses under the Respondent No.2 (with the designation of Senior Operator) are almost same and identical with those of the Applicants.

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3. In their counter filed on behalf of the Respondents, it is stated that the duties, functions and responsibilities Off Set Machine Man in the Press under the Ministry of Communication, Security Printing Press of Hyderabad and Bank Note Press and Budget Press under the Respondent No.2 are completely different from that of the Applicants. The educational qualifications and sources of recruitment are completely different. The Respondents have confirmed that an expert Committee was set up in the year 1987 consisting of officials from the Ministry of Urban Development, Railway Press and Survey of India (Dehradun) to consider the re-classification and remuneration of various jobs in the presses under the different Ministries, in accordance with the scheme proposed by the 4th CPC and in accordance with the recommendations of the said Committee, the off set Machine man and off set machine man Gr. II in the Director of Printing were merged and redesignated as Off Set Machine man in the scale of Rs. 1400-2300/- Respondents have explained, at length, the different educational qualifications, nature of experience etc. required for selection/promotion to the grade of Senior Operators . Their duties and responsibilities are also different from that of Machine man. Respondents have also filed as Annexure-R/3 the decision of the Principal Bench of the Central Administrative Tribunal where a similar matter in O.A. No. 1139 of 1999 was disposed of on 03-04-2002.

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The said Original Application was disposed of by the Principal Bench of the Central Administrative Tribunal with a direction to the Respondents to issue a speaking and reasoned order in accordance with Rules and instructions on the representation made by the Applicants therein. A well reasoned order was issued on 06-09-2002 in compliance of the direction of the Tribunal; which is produced by the Respondents as Annexure-R/4. After discussing, at length, all the points placed by the Applicants, it was finally, concluded that it was not possible to grant the replacement scale of Rs.5,000-8,000/- to the Applicants who are also Off Set Machine Man working in Government of India Press, Minto Road, New Delhi.

4. In their rejoinder, the Applicants have reiterated that if the post of Off Set Machine Man comes under the category of Master Craftsman (as per the IDC report of 1987), they are entitled to the scale of Rs. 5,000-8,000/- (pre revised Rs. 1600-2660/-) as IDC 1995 had endorsed the views of IDC 1987. They have also stated that the nature of duties and responsibilities of the present Applicants and those in other Ministries are same and identical.

5. We have perused the pleadings of the parties and heard the arguments put forth by the learned counsel for both the sides. At the Bar, learned Counsel for the Applicants invited our attention to the decision rendered by this Bench of the Tribunal in OA No. 265 of



1999 disposed of on 13.02-2004 in the case of Jyotirmaya Das & Others –VRS.- Union of India and others. This was a case filed by Machine Man Gr. II working in the Postal Printing Press, Bhubaneswar. A Division Bench of this Tribunal in their order dated 13-02-2004 had directed the Respondents to refer the matter to the Pay anomaly Committee. Accordingly, an Ad-hoc Pay Anomaly Committee was set up by the Respondents and the matter was deliberated upon. It has been submitted by the learned counsel for the Applicants that he was well aware of the fact that the Courts can not ordinarily interfere with the pay scale as determination of the pay scale is not the function of the Judiciary. Quoting from the decisions rendered by the Hon'ble Apex Court in the case of **Secretary, Finance Department and others –Versus- West Bengal Registration Service Association and others** (reported in AIR 1992 SC 1203), learned counsel appearing for the Applicants still asserted that “it can not be said that the Court has no jurisdiction and the aggrieved employees have no remedy if they are unjustly treated by arbitrary State action or inaction”. We have gone through the decision of the Hon'ble Apex Court cited by the learned counsel for the Applicant. We think it is appropriate to quote the relevant observations made by the Hon'ble Apex Court; and they are as under:-

"12. We do not consider it necessary to traverse the case law on which reliance has been placed by counsel for the appellants as it is well settled that equation of posts and determination of pay scales is the primary function of the executive and not the judiciary and, therefore, ordinarily Courts will not enter upon the task of job evaluation which is generally left to expert bodies like the pay Commission, etc. But that is not to say that the Court has no jurisdiction and the aggrieved employees have no remedy if they are unjustly treated by arbitrary State action or inaction. Courts must, however, realize that job evaluation is both a difficult and time consuming task which even expert bodies having the assistance of staff with requisite expertise have found difficult to undertake sometimes on account of want of relevant data and scales for evaluating performances of different groups of employees. This would call for a constant study of the external comparisons and internal relativities on account of the changing nature of job requirements.....".

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"...We have referred to these matters in some detail only to emphasize that several factors have to be kept in view while evolving a pay structure and the horizontal and vertical relativities have to be carefully balanced keeping in mind the hierarchical arrangements, avenues for promotion etc. Such a carefully evolved pay structure ought not to be ordinarily disturbed as it may upset the balance and cause avoidable ripples in other cadres as well".

It is seen that the job evaluation in the Government of India Press was made by a Committee, as early as in 1987 i.e. nearly 2 decades back. The findings of the second Committee set up in 1995 is again a decade old. The Recruitment Rules etc. have been revised as

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late as in 2003 taking into account the advancement made in Printing Technology and corresponding job requirement. The Pay scale granted to the Applicants (Rs. 4,500 - 7,000/-) has been justified by the Respondents based on the recommendations ranging from that of the 4th Pay Commission of 1985 and 5th Pay Commission of 1995 and the two IDCs of 1987 and 1995. The new Recruitment Rules framed in 2003 prescribe educational qualification of Diploma in Printing Technology (off set) from a recognized Institution and five years working experience for direct recruitment to the post of Off set Machine Man. In the 1993 Recruitment Rules the requirement was only matriculation with five years experience. . It can not be denied that the Applicants who have put in nearly 30 years of service and have been doing specialized jobs in the Printing Press have not got themselves accustomed with the New techniques of Printing Technology. Perhaps at the time of their recruitment, persons having any degree or diploma granted by any recognized institution in Printing Technology might have been very few in number. Working experience makes them equal to those with higher/specialized educational qualifications. That is the reason for offering the post of machine man as a promotional avenue for machine assistant with certain number of years of service. We are at a loss to comprehend how the nature of work of Applicants is different from that of the

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officials of same category of Department of Posts and Budget section of Finance Ministry. It defies commonsense to say that work of Printing of Budget Speech or Postal forms requires more expertise than Printing of modern School books (specially Science Text Books).

6. As observed by the Hon'ble Supreme Court, this Tribunal can not sit as an Appellate Authority to make a comparison of the duties and responsibilities of the Applicants and similarly situated persons in other Ministries/Department. Instead of leaving it to the Respondent No.1 alone to do such an exercise, we are of the opinion that it would be proper if an Inter Departmental Committee with the representatives of the Ministries of Urban Development, Finance, Railways, Communication etc. (which have their own Printing Presses) and a couple of experts in Printing Technology is constituted to look into the grievances set out in this O.A. We, therefore, direct the Respondents to set up an Inter-Departmental Committee, as mentioned above, within 30(thirty) days of receipt of a copy of this order. The said Committee shall, within four months of its constitution examine and submit its recommendations to Respondent No.1. On the basis of the said recommendations of the Committee, with the concurrence of the Finance Ministry, (Respondent No.2), the Respondent No.1 shall issue necessary orders either accepting or rejecting the claim of the Applicants within a period of two months

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from the date of receipt of the recommendations of the said Committee. To meet the ends of justice, we direct the Respondent No.1 to give an opportunity for Applicants to present their case before the Committee, if they so desire.

7. With the above observations and directions, this Original Application is disposed of. There shall be no order as to costs.

M.R.Mohanty
23/12/2005
(M.R.MOHANTY)
MEMBER(JUDICIAL)

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(K.N.K.KARTHIYANI)
MEMBER(ADMN.)