

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH**

O.A.No. 307 of 1996

Present: **HON'BLE MR. K.V. SACHIDANANDAN, VICE-CHAIRMAN.**  
**HON'BLE MR. CHAMPAK CHATTERJI, MEMBER (A)**

Shri Swapan Kumar Kundu and 16 Ors.

- V E R S U S -

1. Union of India service through the Secretary, Ministry of Defence, Sena Bhawan, New Delhi..
2. The Engineer-in-Chief, Army Head Quarters, New Delhi.
3. The Garrison Engineer (Air-Force), Bagdogra, Dist. Darjeeling.
4. The Commandant, Works Engineers, Bengdubi, Dist. Darjeeling.
5. The Controller of Defence Accounts, having its Office at Patna (Bihar).
6. The Unit Accountant, G.E.(A.F. ), Bagdogra, District - Darjeeling.

...Respondents

7. Shri Prabir Chandra Sinha
8. Shri Birendra Nath Chaudhury
9. Shri C.L.K. Rao Naidu
10. Shri J.M. Roy
11. Shri Manash Bhattacharyya
12. Shri Ashok Kumar Roy

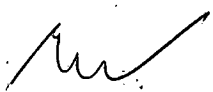
All working for gain as Electricians (SK) at G.E. (Air Force), Bagdogra, District-Darjeeling.

....Private Respondent(Group-A)

13. Shri Subir Dutta
14. Shri Mandan Kumar Rat
15. Shri Amal Kumar Mazumdar
16. Shri Swapan Kumar Roy
17. Shri P.K. Das

All working for gain as Electricians (HS-II) except 14 and 15 at AGE, E/M Bagdogra, P.O. Bagdogra Airport, District-Darjeeling.

...Pvt. Resopondents(Gr.B)



For the applicants : Mr. M.S. Banerjee, counsel.  
Mr. T. Biswas, counsel.

For the respondents : Mrs. U. Sanyal, counsel.

Date of Order: 24.06.2009.

### O R D E R

#### Per Mr. Champak Chatterji, AM

O.A. 307/96 was dismissed by this Tribunal on 2.12.2003. The matter involved was stepping up of pay scales of applicants in that case with respect to their juniors. In para 16, 17 and 18 of the judgment the Court held as follows:-

"16. Factually the position has also been higherly misrepresented. The applicants No. 1, 2, 3, 5, 11, 15, 17, 4, 6, 12, 13, 14 & 16 got promotion to the scale of Electricians (semi-skilled) on or before 16.10.1981 but the applicants No. 8, 9, 10 got promotion after this date and so they are not factually on par with the other applicants for the purpose of claiming parity with the Private Respondents.

17. We also observe that many of these applicants had already got promoted to the High Skilled Grade II and drawing higher pay and applicants No. 17 & 16 had already got promotion to the Electrician High Skilled Grade I when the application was filed. In other words the applicant No. 12, 13, 14, 16, 17, 11 & 15 had got two/three promotions already from the grade of Electricians (skilled). Besides the applicants NO. 11, 15, 17, 12, 14 & 16 had got their promotion to the Electricians (Skilled) on or before 1979 when they were quite junior, and therefore, in their fixation because of the fast promotion they could not have got a higher fixation benefit like the private respondents who were promoted on or after 1984-86. Most of these applicants have got several promotions thereafter and therefore, their cases are neither comparable nor compatible for the purpose of stepping up of pay as claimed. No specific case has been made out to show that when the respondents were upgraded or promoted in 1986 etc. the applicants were drawing the lesser pay.

18. We, therefore, find factually there is no merit in this case and the same is dismissed as devoid of merit. No order as to costs."

2. The applicants then moved the Hon'ble High Court which in WPCT No. 121/2004 vide order dated 12.5.2008 directed that the judgment of the Tribunal would be kept in abeyance and directed that document dated 9.4.2002 called "Comments on the report of the Expert Committee for implementation of CAT Kolkata Bench order in O.A. No. 118/97 filed by Shri P.K. Mohanta and Ors." should be examined as it has got some relevancy in the matter and the said document could not be produced by the applicants with due diligence earlier.

3. The Court, however further directed that in the process, if the earlier judgment and order needs to be reversed, then the same may be reversed upon hearing both the parties, and passing appropriate order, considering the said document.

3. We have considered document dated 9.4.2002 titled "Comments on the report of the Expert Committee for implementation of CAT, Calcutta Bench order in O.A. 118/1997 filed by Shri P.K. Mohanta & Ors."

4. The recommendations of the Committee are at paras 31 and 32 of the Committee report. For greater appreciation the contents of the recommendations of para 31 and 32 are reproduced below:-

"31 (a) As per the govt. policy a senior employee cannot be allowed to draw lesser pay than his junior unless there is something adverse against him. This policy is reflected in the Government of India decisions/instructions under Fundamental rules. As per Govt. Order under FR 22, when a junior employee starts drawing pay at higher stage in the pay scale due to application of pay fixation rules the pay of the senior has to be stepped up at par with the pay of the Junior. Although these provision of the rules cannot be applied in toto in the case of the senior electrician but the committee recommends that the spirit of the govt. policy as enunciated in the Fundamental Rules should also be applied in these cases and the senior electrician should be granted higher pay scale of Rs.330-480 with effect from 16 Oct. 1981 at par with their juniors. Since seniority/promotion etc. in respect of industrial personnel in MES are CWE area based for the purpose of identification of senior or junior it should be on CWE area basis. In other words in any CWE area if any junior Wireman or SBA had been granted higher pay scale of Rs. 330-480 w.e.f. 16 Oct. 1981, the pay of their senior counterpart who had already been promoted to Electrician, Armature Winder or Instrument Repairer prior to 16 Oct. 1981 or those Linemen who were senior in the grade as compared to those 10% of Wireman and SBA their pay should also be upgraded to the scale of Rs.330-480 w.e.f. the date their juniors were granted with all consequential benefits.

(b) In view of the facts as brought out in the observations of the committee in paras 24 to 27, the instructions regarding fixation of seniority vide E-In-C's Branch letter dated 22 Dec. '88 is also recommended to be reviewed.

(c) To obviate any further cases going to the Central Administrative Tribunal or becoming causes for grievances/litigation, it is recommended that the CWE concerned be empowered to deal with such cases in the light of FR 22 which can be applied mutatis mutandis, since this rule is not applicable in toto in this context.

(d) The committee during the course of inter-action with all concerned in the field units have also learnt that similar situation may arise in case of certain other categories such as Fitter General Mechanic, which has been created after clubbing several categories of industrial personnel. It is recommended that the same principle may be made applicable in this case too.

(e) Experts Classification Committee in their deliberations for job evaluating and analysis had observed that the process of job evaluation and



analysis is continuous one and ought to be made a regular feature and a periodical exercise.

32. The technological changes have brought in a host of far-reaching consequences in the skills requirements, qualifications, experience, hazard, responsibility etc. of workers and with more automation coming up, these changes will become faster, therefore, imperative that this exercise of job evaluation and analysis is made a regular feature at a periodicity of two/three years."

It is seen from the above that certain observations and recommendations have been made by the Expert Committee. The Committee has recommended re-conciliation of various orders issued by the Ministry of Defence in terms of FR 22. It is stated as follows:

" When a junior employee starts drawing higher pay with due application of fixation of pay rules the pay of the senior has to be stepped up at par with the pay of the junior."

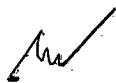
Having stated this the Committee goes on to state as under:-

" Although this position of the rules cannot be applied in toto in the case of the Senior Electrician, the Committee recommends that as per Govt. policy as enunciated in the fundamental rules should be applied in this case and the Senior Electrician should be granted higher pay scale of Rs.330-40/- w.e.f. 16.10.1981 at par with their juniors. The Committee has recommended that fixation of seniority in the E-in-C Branch letter dated 22.12.1988 should be reviewed."

Para 32 of the Committee's recommendations goes on to state :-

"32. The technological changes have brought in a host of far-reaching consequences in the skills requirements, qualifications, experience, hazard, responsibility etc. of workers and with more automation coming up, these changes will become faster, therefore, imperative that this exercise of job evaluation and analysis is made a regular feature at a periodicity of two/three years."

Later follow-up action of the report of the Expert Committee was taken as per enclosures. Reports were sought from various zones in the matter. In Appendix 'A' there is a list of left over Senior Electricians who are not applicants in O.A. 118/97. The names of the applicants feature in this list. It is not clear as to what further action had been taken by the respondents in response to the Expert Committee recommendations. However, since it involves matters in respect of pay fixation it cannot be decided by the Ministry of Defence alone and the Ministry of Finance will have to be consulted in the matter. In the meantime since the submission of the Expert



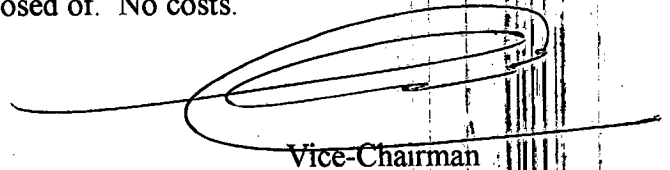
Committee report, the 6<sup>th</sup> CPC have also come into being and has submitted its report which the Government has accepted.

5. We, therefore, direct that in terms of directions of the Hon'ble High Court given in WPCT 121/2004 the applicants will file a representation before the concerned authority of Ministry of Defence enclosing a copy of the Expert Committee's recommendations, who on receipt of the same, will consider the representation in the light of the directions of the Hon'ble High Court, the recommendations of the Expert Committee report and the decision of the Govt. in the matter.

6. However, we make it clear that the recommendations of the Expert Committee are recommendations only and there is no decision of the Government. We further direct that since matters relating to pay is involved which has larger ramification throughout the entire Govt. and the interpretation of FR 22 is also involved, the Ministry of Defence will dispose of the representation with a reasoned speaking order in consultation with the Department of Personnel as well as the Ministry of Finance within a period of six months. The O.A. is thus disposed of. No costs.



Member (A)

  
Vice-Chairman