

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 626/87

199

T.A. NO:

DATE OF DECISION 7.10.92

VS

SHRI SUNIL K. PATIL AND ORS. Petitioner

SHRI V.K.PRADHAN Advocate for the Petitioners

Versus

THE SECRETARY, Min. of Defence Respondent

SHRI P.M.PRADHAN Advocate for the Respondent(s)

CORAM:

The Hon'ble ~~Mr.~~ USHA SAVARA(M/A)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

No.

Usha Savara
(USHA SAVARA) 9.10.92
M/A

mbm*

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

ORIGINAL APPLICATION NO: 626/87

Shri Sunil K.Patil
and another
V/s

... Applicant

The Secretary, Ministry of Defence,
New Delhi

... Respondents.

CORAM : HON'BLE USHA SAVARA, MEMBER (A)

Appearance :

Shri V.K.Pradhan, Adv.
~~for~~ the applicant

Shri P.M.Pradhan, Adv.
for the respondents.

JUDGEMENT

(PER : USHA SAVARA, M/A

DATED: 9. 10.1992

This Original Application has been filed assailing the order dated 1.9.1987 by which the Respondent No.2 has refixed the pay of the applicants in the pay scale of Rs.210-290 as against Rs.260-400 which they were receiving from the date of their appointment i.e. 7.9.1983 in the post of Wiremen(casual). The applicants were on probation for 2 years, and had completed their probationary period satisfactorily and were working in permanent capacity of Wiremen in the pay scale of Rs.260-400 when the Respondent No.2 issued the letter dated 1.9.1987 reducing their pay from Rs.950 p.m. to Rs.800 p.m. on the ground that erroneously they had been given the pay scale of Rs.260-400.

2. Shri V.K.Pradhan, learned counsel for the applicants relied upon the letter of appointment dated 7.11.1983 issued by the Garrison Engineer offering the applicant appointment to the post of Wireman for a period of 89 days on pay of Rs.260 p.m. + allowances.

It was his case that on being appointed regularly to the same post, the applicants cannot be given a lower pay scale. No prior notice was given prior to reduction of pay scale, and therefore the respondents had acted illegally, arbitrarily and without any basis. The directive of higher authorities which resulted in amendment of pay scale was not shown to the applicants and such a reduction, without issue of show cause notice or chargesheet or enquiry amounted to punishment. Therefore the order dated 1.9.1987 deserves to be quashed. Shri P.M.Pradhan, argued the case vehemently on behalf of the respondents. He pointed out various circulars on fitment of industrial workers of Military Engineering Services on pay scales recommended by the Third Pay Commission. The pay scale of semi-skilled grade was Rs.210-290 and the pay scale of skilled ~~grade~~ was Rs.260-400. But primarily, Shri Pradhan relied upon the letters of appointment issued to the applicants dated 26.4.1985 offering a pay of Rs.210-290 on two years probation initially, liable for extension. The applicants denied receiving these letters, however the copies of their acceptance referring to the letter Nos. alongwith ^{us.} required annexures as required, were also placed before us. In short, it is the respondents case, that the pay scale of Rs.260-400 was erroneously given to some applicants and on discovering the mistakes, the respondents have the right to rectify the same. There was no question of charge-sheet or enquiry as the reduction was only due to correction of a mistake, and therefore the Original Application deserves to be dismissed.

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3. I have perused the relevant annexures. At the outset, it is obvious that the letters of appointment, which stated clearly the pay scale to which the applicants were entitled to, were not brought on record by the applicants deliberately. The applicants have, therefore, come to the Court with unclean hands. They have sought to conceal basic facts and documents from the Court. The letters of appointment are quite clear and unambiguous and the appointment of the applicants to the post of Wiremen was in the pay scale of Rs.210-290. The applicants have also failed to point out any other similarly placed wiremen who have been given the pay scale of Rs.260-400. The Government can correct a bonafide mistake at a subsequent stage when the mistake comes to its notice and such an action would not come within the ambit of Article 311 of the Constitution. This is especially so in this case, where the applicants have known all along that their pay scale was Rs.210-290 only. This finds support in the judgement of the Andhra Pradesh High Court in the case of K.Krishna Sherigari V/s the Syndicate Bank Ltd. reported in SLJ 1984 (1) 50.

4. In the circumstances the application is dismissed with no order as to costs. The interim order dated 13.10.1987 stands vacated.

U. Leonard.

(USHA SAVARA)
M/A