

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400614

O.A.NO.336/86

1. Shri Abdul Samad
2. Shri S R Passi
3. Shri W T Khedekar
4. Shri V P Jadhav
5. Shri R D Nair
6. Shri Surat Ram

Applicants

V/s.

1. Union of India
2. The Chairman/Director General
Ordnance Factories
Ordnance Factory Board
Calcutta
3. The General Manager
Machine Tool Prototype Factory
Ambarnath
4. The General Manager
Ordnance Factory
Amabarnath

Respondents

Coram : Hon'ble Vice Chairman Shri B C Gadgil
Hon'ble Member(A) Smt J Anjani Dayanand

Apparance:

Shri P.T. Abraham
Advocate
for the applicants

Shri S R Atre
(for Shri P M Pradhan),
Counsel
for the respondents

ORAL JUDGMENT
(PER : B C Gadgil, Vice Chairman)

DATED : 9.8.1988

The six applicants are working as Motor Cleaners,
Applicants nos. 1 and 2 are in the Machine Tool Prototype
Factory, Ambarnath, while applicants nos. 3 to 6 are
in the Ordnance Factory, Ambarnath. According to the

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IIIrd Pay Commission, the pay scales of Motor Cleaners were fixed at Rs.210-290. However, there were certain anomalies in the fixation of pay on the basis of Third Pay Commission and hence an Expert Classification Committee was formed by the Government to remove the anomalies. It is not disputed that the said Committee has upgraded certain posts and at the same time have down graded others. The Committee has down graded the post of Motor Cleaner from the pay scale of Rs.210-290 to Rs.196-232 on the basis of classification as unskilled and the work that is being done.

2. Both these Factories are paying incentive bonus to its employees. Such bonus is payable only to semi-skilled and skilled workers and not to unskilled workers. The down graded pay scale was made effective from 16.10.1981 and the persons in the pay scale of Rs.196-232 are treated as unskilled workers. However, the pay of the existing incumbents (which might be more than the above mentioned pay scales) was protected. The contention of the department is that these applicants who were in the pay scale of Rs.210-290 are who have been down graded to Rs. 196-232 are unskilled workmen and that they are not entitled to incentive bonus. However, it appears that such incentive bonus has been paid to these applicants from January 1982 till May 1985.

3. The Machine Tool Prototype Factory issued an order dated 8.9.1986 that the incentive bonus that was paid to applicants nos. 1 and 2 should be recovered. It appears that there is no such recovery order against applicants nos. 3 to 6 who are working at Ordnance Factory. However, they apprehended that similar action would be taken against them. The applicants, therefore, filed the present application contending that in spite of down grading of the post of Motor Cleaner ~~to~~ the pay scale of Rs.196-232, they continue to be semi-skilled workers as their earlier pay has been protected. They have, therefore, claimed that the incentive bonus that has been paid to them from 1.1.1982 is quite legal and proper and that the respondents should be restrained from recovering the ^{incentive} bonus that has already been paid.

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They further claim that hereafter the respondents be directed for payment of such ^{incentive} bonus.

4. The respondents resisted the application by filing their reply. In substance their contention is that after down grading the pay scales of Motor Cleaners from Rs.210-290 to Rs.196-232 the said Motor Cleaners have to be treated as unskilled workers and consequently they are not entitled to the incentive bonus. As far as the payment of such bonus from January 1982 till May 1985 is concerned, the respondents contend that such payment has been erroneously made and that recovery of that amount from the salary of the applicants would be quite legal and proper.

5. We have heard Mr. Abraham for the applicants and Mr. S R Atre (for Mr. P M Pradhan) for the respondents. It is important to note that the Expert Classification Committee has classified the post of Motor Cleaner as unskilled one in the pay scale of Rs.196-232 with effect from 16.10.1981. It is not disputed before us that a person having such a pay scale would be an unskilled worker. Thus the post of Motor Cleaner would be an unskilled post. It is true that the higher pay of the applicants has been protected and they are getting the pay on the basis of Rs.210-290 scale. But that would not mean that the applicants have been classified as semi-skilled workers. The job they are doing is that of a Motor Cleaner. The pay scale of Motor Cleaner is determined as Rs.196-232 and this pay scale is that of unskilled workmen. Mere protection of the earlier pay of the applicants would not make them as semi-skilled workers. Under these circumstances, it will not be possible for us to accept the contention of the applicant that they should be classified as semi-skilled workers so as to enable them to receive incentive bonus on that basis.

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6. The other contention of Mr. Abraham appears to be reasonable. We have already observed that the incentive bonus paid to applicants nos. 1 and 2 from 1.1.1982 to 31.5.1985 is being recovered by deducting certain instalments from the salary. No such deductions appear to have been made from the salary of applicants nos. 3 to 6. However, these applicants apprehend such an action on the part of the department. In our opinion it would be just and equitable to direct the respondents not to make recovery of paltry amounts not exceeding Rs.2000 to Rs.3000 from the salary of the unskilled workers. It is true that technically they would not be entitled to the incentive bonus that was paid to them from 1982 to 1985. However, it would be too late in the day to permit the respondents to recover the amount from the applicants. For the above reasons we pass the following order:

ORDER

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The application partly succeeds.

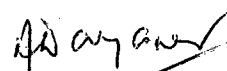
The claim of applicants to have incentive bonus is rejected.

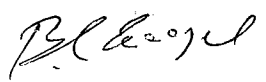
The action of the respondents in recovering the amount of incentive bonus paid to applicants nos. 1 and 2 from 1.1.1982 to 31.5.1985 is struck down. The amount, if recovered, should be paid back to these applicants.

Similarly, the respondents are restrained from recovering similar amount (i.e., the incentive bonus paid from 1.1.1982 to 31.5.1985) from the applicants nos. 3 to 6. It is needless to say that if any such recovery has been made the respondents are directed to repay the amount

These orders should be complied within a period of three months from to-day.

Parties to bear their own costs of this application.


(J. Anjani Dayanand)
Member -(A)


(B C Gadgil)
Vice Chairman