

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAT BENCH, MUMBAI.

Original Application No.313/96
&
Original Application No.520/96

Dated this, 26th the Day of July, 2001.

CORAM: HON'BLE SMT. SHANTA SHAstry, MEMBER (A)
HON'BLE SHRT SHANKER RAJU, MEMBER (J)

1. Shri C.P.Hatwalne,
2. Shri D.T.Chaudhari,
3. Shri G.M.Bhole,
4. Shri V.M. Lamhane,
5. Shri M.G.Patil,
6. Shri A.H.Jadhav,
7. Shri M.N.Patil,
8. Shri S.D. Wankhede
9. Shri S.B. Zope,
10. Shri S.G. Chaudhari,
11. Shri B.H. Patil,
12. Shri V.R.Ghule,
13. Shri N.B.Patil,
14. Shri T.S.Thakur,
15. Shri B.L.Patil,
16. Shri D.V. Rathod,
17. Shri B.S.Pachapande,
18. Shri P.U.Thakur,
19. Shri E.B.Patil,
20. Shri B.S. Varade,
21. Shri B.P.Chaudhari,
22. Shri R.R.Patil,
23. Shri P.K.Nahale
24. Shri S.B. Bhavsar,
25. Shri T.S.Patil,
26. Shri N.R. Yeole,
27. Shri R.D.Sali,
28. Shri M.L.Mahajan,
29. Shri P.K.Patil,
30. Shri P.A. Chaudhari,
31. Shri D.P. Rane,
32. Shri T.O.Patil,
33. Shri R.N. Manjhi,
34. Shri K.R.Sonar,
35. Shri B.F.Chaudhari,
36. Shri K.O. Patil,
37. Shri R.K.Neve,
38. Shri S.G. Ingale,
39. Shri R.H. Bagare,
40. Shri R.N.Zope,
41. Shri P.H.Patil,
42. Shri P.B.Bhangale,
43. Shri A.K.Koli,
44. Shri D.B.Tayade,
45. Shri L.S.Patil,

46. Shri K.O. Chaudhari,
47. Shri K.Y. Shaikh
48. Shri A.W. Patil,
49. Shri P.S. Mahajan,
50. Shri S.B. Chaudhari,
51. Shri N.H. Lokhande
52. Shri R.N. Chayal,
53. Shri K.D. Patil,
54. Shri P.R. Patil,
55. Shri C.T. Patil,
56. Shri N.T. Koshti,
57. Shri E.V. Chaudhari,
58. Shri B.K. Matil,
59. Shri S.D. Patil,
60. Shri S.G. Patil
61. Shri P.B. Patil,
62. Shri T.P. Khachane
63. Shri V.J. Chaudhari,
64. Shri M.K. Joshi,
65. Shri F.R. Jaiswal,
66. Shri G.K. Saraf,
67. Shri C.S. Patil,
68. Shri R.R. Chaudhari,
69. Shri R.K. Chaudhari,
70. Shri P.V. Kulkarni,
71. Shri S.N. Patil,
72. Shri V.B. Bagul,
73. Shri G.K. Mahajan,
74. Shri B.T. Patil,
75. Shri M.R. Ogale,
76. Shri J.D. Bonde,
77. Shri Sahadev Shinde
78. Shri E.N. Patil,
79. Shri A.V. Chaudhari,
80. Shri R.K. Chaudhari,
81. Shri P.P. Patil,
82. Shri R.D. Bagul,
83. Shri J.G. Patil,\br/>84. Shri A.G. Tadvi,
85. Shri Abdul Kayyum
86. Shri N.K. Ingale,
87. Shri A.R. Pachpande,

C/o General Manager,
Ordnance Factory,
Varangaon 425 308.

(Applicants by Shri D.V. Gangal, Adv.)

....Applicants in
O.A.No.313/96

Pratiraksha Mazdoor Sangh
Ordnance Factory,
Varangaon 425308
through

1. Shri D.T. Chaudhari,
Jt. Secretary

...3/-

2. Shri V.D. Ikkankar

.... Applicants in
O.A.No.520/96

(Applicants by Shri D.V.Gangal, Adv.)

vs.

1. The Secretary
Ministry of Defence
South Block,
New Delhi.

2. The Director General
Ordnance Factories Board,
10, Aukland Road,
Calcutta.

3. The General Manager,
Ordnance Factory,
Varangaon 425 308.

.... Respondents in
Both the O.As.

(Respondents by Shri R.K.Shetty, Advocate)

ORDER

[Per: Smt. Shanta Shastry, Member (A)]:

O.A.No.313/96 and 520/96 were heard together as the issue raised in these OAs. is identical and the relief claimed is also the same. Therefore, we have proceeded to dispose of these 2 OAs. by a common order.

2. These Applications are made against the Order dated 13.4.1995 whereby the request of the Applicants for upgradation of their Pay Scale has been rejected. The Applicants belong to the Trades viz. 1) Turner, 2) Fitter, 3) Miller, 4) Tool Maker 5) Welder, 6) Sheet Metal Worker 7) Auto Fitter 8) Examiner, 9) Instrument Fitter, 10) Electroplator 11) Engraver and 12) Electric Fitter. They were in the Pay Scale of Rs.260-400/-. The Third Pay Commission in its report in Chapter 19 in para 19 directed to constitute an Expert Classification Committee in respect of fitment of scale of pay of the employees of the Ordnance Factories and Ordnance Equipment Factories.

Accordingly, a Committee was set up, and it submitted its report in 1981. The Committee recommended the upgradation of certain Trades such as Bar Mill Head Roller 'B', Borer Genl. 'B', Fitter T & G 'B', Job Borer- B, Mill Wright-B, Tool Setter-B. Some Trades which were semi skilled were converted into skilled. The post of Bar Mill Head Roller 'A' was further upgraded to high skilled Grade I. Upgradation was given in respect of Fitter T&G A, Jig Borer A and again Fitter T&G A also. Similarly certain Trades were downgraded like that of Engraver Machine 'B' Grade from the scale of Rs.260 -350/- to 210-290/-. It is the grievance of the Applicants that those Trade groups in respect of whom the Scales were upgraded from Rs.260-350/- to 330-480/- were absolutely identical with the Trades to which the Applicants belonged yet the Expert Classification Committee (ECC) granted upgradation only in respect of 7 Trades to the High Skilled Grade II but deprived the same to 12 Trades to which the Applicants belong. The matter was further referred to Anomalies Committee. Thereafter initially the Ministry of Defence issued an Order on 16.10.1981, in respect of the upgradation of the other Trades, and the further Corrigendum was issued on 17.10.1983. Thus the Applicants Trades have been discriminated against. They had agitated the matter through their Federation i.e. Bhartiya Pratiraksha Mazdoor Sangh at New Delhi and at Calcutta. It was also discussed in the respective Joint Consultative Machinery at different levels. However, without any result. Further Writ Petitions were filed in some High Courts and finally the matter went to the Supreme Court in the case of *Bhagwan Sahay and Ors.*

vs. UOI The Supreme Court directed vide its judgement dated 15.3.1989 that the benefits of upgradation should be granted from 16th October, 1981 including arrears of Pay etc.

3. The Applicants were hoping to get the benefit of the judgement but nothing was forthcoming. They sent individual representations on 25.2.1995, and the identical reply was given to all vide the impugned letter dated 13.4.1995.

4. The O.A.No.313/96 is moved by 87 workers and the second O.A. No.520/96 is made by the Pratiraksh Mazdoor Sangh through its Jt. Secretary and another. The Applicants submit that only 7 Trades were granted upgradation, but not the 12 Trades to which the Applicants belong. Some Applicants belonging to the Trade of Grinders who were also not included in the orders of upgradation filed a Writ Petition in the High Court of Calcutta transferred to the Central Administrative Tribunal, Calcutta Bench. The Tribunal granted the benefits of upgradation to the Grinders by judgement dated 30th Oct. 1987. The same was implemented by the Govt. of India in respect of some of the Grinders who were parties to the proceedings. Some other Grinders also filed O.A. 555/90 in the Mumbai Bench of CAT, and again orders were passed on 3rd July, 1982 granting the benefit of Pay Fixation and arrears to the applicants therein. The Applicants stated that some other petitions are also pending before the Bombay Bench of the Tribunal. The Applicants further submit that the Calcutta Bench of the Tribunal observed that the conclusion reached by the Expert Classification Committee and the Anomalies Committee are distorted and, therefore the Govt. has not properly acted in

respect of the cadre of grinders in not granting them the benefit of upgraadaing Skilled Grade II to Skilled Grade I. The Tribunal ruled that the benefit should be granted to the Grinders by upgrading the Pay Scale of Rs.320-400/- to Rs.380- 560/-. In spite of various efforts made by the Applicants, they have not yet been granted any upgradation in respect of the 12 Trades to which they belong. According to the Applicants the Respondents have violated Article 39 (d) of the Constitution about equal pay for equal work. Though some of the Trades were upgraded their job contents remained the same. There is no justification or classification for 7 Trades to be upgraded and the remaining Trades to be left out of the Scheme. It is a baseless classification. Further one of the Applicants Shri M.R. Ogale working as Engraver skilled has been down graded. With the result he was required to get promotion to the semi skilled trade first and then to the skilled trade. This anomalous situation has led to the Applicants losing their chances of further promotion. The Applicaqnts have, therefore, prayed that their Trades also should be upgraded.

5. In this connection the learned Counsel for the Applicants drew our attention to para 74 of the report of the Expert Classification Committee Vol.II. According to him the Expert Classification Committee recommended upgradation of the scale of Fitter (Elec.) to Rs.330 - 480/-. The applicants belong to Gr. 'B'. However, this was ignored and even the Anomalies Committee ignored the same.

6. The Respondents initially raised the objection to the Application being filed by the Pratiraksha Mazdoor Sangh which

according to the Respondents is not a properly recognised Union and had no authority to file the O.A. However, later on the Applicants amended the O.A. and showed the application as having been filed by 87 individual members. The Respondents further submit that the Applicants had not made out any case or produced material to substantiate their claims. The main demand of the Applicants is that they should be granted pay scales of Rs.330 480/- w.e.f. 16.10.1981. The Applicants have not supported their claim with any details. Further the prayer made is for revision in the Scale of Pay w.e.f 16.10.1981, i.e. after a lapse of 15 years. The respondents also harped strongly that pay revision is not the domain of the Courts or Tribunal. It is an Executive Function of the Govt. based on the policy and depending upon the availability of resources. The learned Counsel drew our attention to the various judgements of the Supreme Court, wherein it has been ruled that revision of Pay Scales etc. is the function of the Expert Committees like Pay Commission and it is not for the Tribunal to interfere with the same.

7. The learned Counsel for the Respondents also referred to the judgement of the Madras Bench of the Tribunal in O.A. 667 to 701 of 1986, Wherein identical contentions were put forth, in respect of some other Trades which were not covered by upgradation. The Madras Bench dismissed those applications by judgement and order dated 24.7.1987 with the following observation:

"We cannot entertain this plea because it is not for the Tribunal to evaluate as to what the job content of the Fitter (T &G) Grade A is and what is the job content of the posts which the Applicants are holding as Tool Maker 'A'. In general terms, point rating has been done for these posts already and we have passed our order on that. However, in case a representation is made to them by the Applicants, it is always open to the Respondents to examine this matter again with specific reference to the posts held by the applicants."

The Learned Counsel for the Respondents further submits that even the judgement of the Calcutta Bench of the Tribunal was challenged by the Respondents therein and the Supreme Court had struck down the same. Review Application was filed in the matter in the Tribunal. Therefore, the judgement of the Calcutta Bench of the Tribunal cannot be relied upon.

8. Coming to the merits of the case, the learned Counsel has produced a Chart showing the names of the categories of Applicants in the O.A. and the recommendation made by the Expert Classification Committee and the point rating given by the aforesaid Committee. It is seen from this chart that as per Para

No.11.9 and 11.10 of the Expert Classification Committee report Vol.I read with Para 1.1 of the Anomalies Committee Report the point rating given to the Applicants Trades is 291 to 315 for the Pay Scale of 260-400. Nowhere is there any higher point rating given to the Trades in the Scale of Pay of Rs. 260--400. Therefore, the contention of the learned Counsel for the Applicants that the Expert Classification Committee had given a higher point rating and had recommended the scale of Rs.330-480 is not borne out by actual fact. In fact the reference to para 74 of the Committee's report in Vol.II, has also been wrongly quoted in the sense, the scale of 330-480/-. Group B is meant for DGOF and HVF and not for the the Applicants. These are higher categories. The Applicants are only in the category of Rs.260--400/-. In view of this, the Applicants have no case for any upgradation of their scales.

8. We have given careful consideration to the rival contentions put forth. We agree with the Respondents that Revision of Pay Scales etc. or upgradation is a matter to be considered by Expert Groups like Pay Commission and policy decision has to be taken by Govt. We are therefore not inclined to interfere with these Pay Scales. Further the Application is hit by limitation and suffers from laches and delays. The upgraded Pay Scales have been granted to some Trades w.e.f. 1981. The Applicants have approached in 1996 after a lapse of 15 years. The learned Counsel for the Applicants however, contended that in the matter of revision of Pay Scales it is a continuing cause of action and, therefore, limitation does not apply in their case. This can be appreciated if it is in the case of one individual.

9. The Applicants have moved various authorities in the matter. But as an Expert Committee has gone into the matter and has chosen not to recommend any upgradation in respect of the Trades to which the Applicants belong, we are unable to consider the demand of the Applicants. On merits also as rightly pointed out by the learned Counsel for Respondents the point rating given by the ECC clearly shows that the Committee never meant to recommend any upgradation of the Pay Scale of Rs.260--400/ in respect of the Applicant's Trades. The Anomalies Committee also did not consider it necessary. The Applicants have failed to make out any convincing case on merits. In the facts and circumstances of the case, the O.As. are dismissed, without any order as to costs.

Member (J)

Member (A)

sj*