

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NOS.: 735/99, 740/99, 891/99, 971/99,
122/2000 & 252/2000.

11/11/2001, this the 20th day of June, 2001.

CORAM : Hon'ble Shri Justice Ashok C. Agarwal, Chairman.
Hon'ble Shri Justice Birendra Dikshit, Vice-Chairman,
Hon'ble Smt. Shanta Shastry, Member (A)

O.A. NO.: 735 of 1999.

Prakash Dundappa Mogli,
Tailor,
Under Commanding Officer,
Southern Command,
Provost Unit, Pune 411 001. ... Applicant.

(By Advocate Shri D.V. Gangal)

VERSUS

1. Union of India through
The Secretary,
Ministry of Defence,
South Block, New Delhi.
2. Adjutant General,
Provost Marshal's Officer,
Army Headquarters, AHQ P.O.,
New Delhi - 110 011.
3. Record Officer,
Sena Police Corps,
Abhilekh Karyalaya,
Military Police Records,
Bangalore - 560 025.
4. The Commanding Officer,
Southern Command,
Provost Unit,
Pune - 411 001. ... Respondents.

(By Advocate Shri R. R. Shetty)

O.A. NO. 740 of 1999.

1. Hendre Chandrakant Namdeo.
2. Mashale Shankar Daulat.
3. Tamhane Bharat Kashinath.

4. Obbnna Hanumatta.
5. Hole Raju Ramachandra.
6. Sadare Kishor Anantrao.
7. Errnna Ramappa Bhandari.
8. Shelar Surykant Krishnaj.
9. Masadge Vasant Narayan.
10. Salunke Gokul Ram.
- 10.A. Mulavi Bashir Gulamali.
11. Vanarse Haridas Dnyashwar.
12. Lokhandi Premdas Tulshiram.
13. Tahamane Gangaram Sopanrao.
14. Khopkar Vilas Shankar.
15. Phand Rohidas Shakaram.
16. Sawant Suresh Sawalaram.
17. Hendre Vinyak Muralidhar.
18. Alhat Bhagwan Shrirang.
19. Dawakhār Sopan Sakharam.
20. Smt. Shaikh Meera Mustak.
21. Smt. Jagadamba Devi.
22. Abdual Rehman Shaikh.
- 22.A. Vikram Vetal Bansode.
23. Falle Raghunath Balbhim.
24. Adsul Arun Ganpat.
25. Gaikwad Raju B.

... Applicants.

All the applicants are working as Tailors in the Ordnance Depot, Talegaon, Dabhade, Pune.

(By Advocate Shri K. R. Yelwe)

VERSUS

1. Union of India through the Secretary to the Govt. Of India, Ministry of Defence, Ordnance Branch, New Delhi.

...3.

2. The Director General of Ordnance (Service OS-BC)
Master General of Ordnance
Branch, Army Headquarters,
New Delhi.
3. Major General A.O.C.
South Command,
Pune - 411 001.
4. The Commandant,
Ordnance Depot, Talegaon,
Dabhad - 410 506.
5. C.D.A.
Southern Command,
Pune - 411 001.

... Respondents.

(By Advocate Shri R. R. Shetty)

O.A. NO. 891 of 1999.

1. S. R. Bansode.
2. S. K. Pawar.
3. Manoharlal Vishal Singh.
4. Syed Akbar Mahmud Miyan.
5. Gyaneshwar More.
6. T. M. Solay.
7. L.S. Gahile.
8. Ramdas.

... Applicants.

All the applicants are presently
working as Tailor at Armoured Corps
Centre & School, Ahmednagar - 414 002.

(By Advocate Shri S. P. Saxena)

VERSUS

1. Union of India through
The Secretary,
Ministry of Defence,
New Delhi - 110 011.
2. The Commandant,
Armoured Corps Centre & School,
Ahmednagar - 411 402.
3. Controller of Defence Account
(Pay/2/1 Sec.),
Southern Command,
Pune - 411 001.

... Respondents.

(By Advocate Shri R. R. Shetty).

...4.

O.A. NO. 971 of 1999.

1. Mohd. Minhajuddin.
Armoured Tailor Corps Centre
& School, Ahmednagar 414 002.
 2. N. K. Kutty.
Tailor, Artillary Centre,
Nasik Road Camp, Nasik.
- ... Applicants.

(By Advocate Shri S. P. Saxena)

VERSUS

1. Union of India through
The Secretary,
Ministry of Defence,
D.H.Q. P.O.,
New Delhi.
 2. The Commandant,
Armoured Corps Centre & School,
Ahmednagar.
 3. The Commandent,
Artillary Centre,
Nasik Road Camp, Nasik.
- ... Respondents.

(By Advocate Shri R. R. Shetty).

O.A. NO. 122 of 2000.

1. Rajendra H. Lakhwan.
2. Mohammad T. Shaikh.
3. Krishnan Kutty.
4. Appa M. Jagtap.
5. Murlidhar B. Modhave.
Vs.
1. Union of India through
The Secretary,
Ministry of Defence,
D.H.Q. P.O.,
All the applicants are presently
working as Tailors at Bit Battalion,
M.I.R.C. at Ahmednagar.

(By Advocate Shri S.P. Saxena)
Vs.

1. Union of India through
The Secretary,
Ministry of Defence,
D.H.Q. P.O.,
New Delhi - 110 011.

2. The Director General of Mech. Forces (Pers.), General Staff Branch, Army H.Q., DHQ P.O., New Delhi - 110 011.
3. The Officer-In-Charge, Pay/II Section, C.D.A. Southern Command, Pune - 411 001.
4. The Commandant, M.I.R.C., Ahmednagar 414 110. ... Respondents.

(By Advocate Shri R. R. Shetty)

O.A. NO. 252 of 2000

1. R. Vasudev.
2. Atmaram K. Kamble.
3. Rajendra S. Bagade.
4. Gulab K. Kodre.
5. S. D. Bahule.
6. Fakir M. Shaikh.
7. Parmeshwar R. Kamble. ... Applicants.

All Applicants are working as Tailor at Bombay Engineer Group & Centre, Kirkee, Pune - 411 003.

(By Advocate Shri S. P. Saxena)

VERSUS

1. Union of India through The Secretary, Ministry of Defence, DHQ, P.O., New Delhi 110 001.
2. The Commandant, HQs Bombay Engineer Group & Centre, Kirkee, Pune 411 003. ... Respondents.

(By Advocate Shri R. R. Shetty)

: O R D E R :

{Per Shri Justice Birendra Dikshit, Vice-Chairman}

These six Original Applications (viz. 735/1999, 740/1999, 891/1999, 971/1999, 122/2000 & 252/2000) have been filed by Tailors working in the Ministry of Defence, Government of India who claim that they have been wrongly deprived of upgradation as skilled Tailors with revised pay scale of Rs.260-400 recommended by the Third Pay Commission. We passed operative portion of the order on 27.4.2001 and hereby we are declaring the reasons for dismissing the said OAs.

2. All the applicants are working as Tailors under the Ministry of Defence. They are Civil employees. Their grievance is that, while they were non-industrial workers of semi-skilled category in the pay scale of Rs.210-290, they were upgraded as skilled workers with pay scale of Rs. 260-400 by Government of India on a recommendation by the Anomalies Committee of the IIIrd Pay Commission. Initially, the upgraded pay scale was given effect, but subsequently, the Respondents re-considered the matter and they have withdrawn the benefit which was being given to applicants. The ground on which it has been withdrawn is that the Anomalies Committee of the IIIrd Pay Commission did not recommend the said benefit. On withdrawal, the applicants have been brought down to the pay scale of Rs.210-290, which is equivalent to present scale of Rs.2,650-4,000 from Rs. 260-400 equivalent to present pay scale of Rs.3,050-4,050. As the applicants have been kept in the category of non-industrial semi-skilled workers, the recovery of difference of pay and allowances already paid to applicants has been ordered by Respondents.

3. When these matters were taken up by a Division Bench of this

Tribunal, the Learned Counsel for applicants in support of his contention contended that applicants are entitled for relief that they are claiming and they sought support from the orders passed by the Bangalore and Hyderabad Benches of Central Administrative Tribunal in similar matters. As the said Benches, did accept the contention of Tailors working with certain units/establishments of the Ministry of Defence, the Division Bench felt doubt about correctness of those orders and therefore, for re-considering the matter, the Division Bench referred the cases for Full Bench after formulating following question for determination:

" Whether the impugned order merely corrects a mistake made and is, therefore, valid or whether a decision on the lines taken by different Benches of this Tribunal in the above mentioned O.As. would be justified.

Also, what should be the exact relief made available".

Said questions were formulated keeping in view the claim of Respondents that due to mistake that the applicants were upgraded and were given higher pay scale; that there was no order of Government of India upgrading the posts of Tailors and, therefore, the applicants were not entitled for it and the Respondents have merely corrected that mistake.

4. The case of the applicants in all the OAs being similar and giving rise to similar question of law, they were connected and heard together. As facts of all the matters are similar, facts of one case are sufficient for determining the controversy. Thus, it is not necessary to set out the facts in detail in respect of all the cases. For the said reason, we are setting out facts of O.A. 735/1999 : Shri Prakash Dondappa Mogli Vs. Union of India & Ors.

5. Undisputedly, Mogli was appointed as Tailor with the Adjutant General Branch as a semi-skilled non-industrial worker and has been working since 1983 in the pay scale of Rs.210-290. The

Ministry of Defence by OM 3822/DS(O&M)/CW - I 84 dt. 15.10.1984
on the recommendation of Anomalies Committee/Third Pay Commission
communicated sanction of upgradation of posts as follows:

" Based on the decision taken by the Government on the unanimous recommendations of the Anomalies Committee, I am directed to convey the sanction of the President to the following:

- (i) Upgradation of the following jobs from semi-skilled grade (Rs. 210-290) to the skilled grade (Rs.260-400) :-

S.I. No.	Job Title	Existing Scale	Revised Scale
1.	Boot Maker	Rs.210-290	Rs.260-400
2.	Carpenter	- do -	- do -
3.	Painter/Painter-III	- do -	- do -
4.	Painter (IRC)	- do -	- do -

These orders supercede the earlier orders in regard to fitment of the above categories of workers in the relevant scales of pay from the date of issue of this letter.

Fresh induction to the trades listed in (i) above shall be from :-

(a) semi-skilled categories to be identified by you or feeder categories in the pay scale of Rs.210-290 already existing under the present recruitment rules, subject to the workers having rendered a minimum of three years' service in the grade and after passing the prescribed trade tests; and

(b) direct recruits with ITI certificate/Ex-trade Apprentices/NCTVT etc. inducted in the semi-skilled grade who have rendered 2 years service in that grade

(ii) Provision/introduction of Highly Skilled Grade II (Rs.330-480) and Highly Skilled Grade - I (Rs.380-560) for common category jobs listed in Annexure - I classified as 'Skilled' depending on the functional requirement of highly skilled jobs, in the following manner as a bench-mark percentage.

- (a) Highly skilled grade I (Rs.380-560) 15%
(b) Highly skilled grade II(Rs.330-480) 20%
(c) Skilled grade (Rs.260-400) 65%.

This should be given to the trades enumerated in Annexure -I with viable number of jobs and if there are non-viable

trades these should be grouped together for the purposes of giving the above benefit. In the trade where the above bench-mark percentages are introduced, the selection selection grade for the skilled grade, if provided, will stand simultaneously abolished as a one-time measure.

These orders will take effect from the date of issue.

The expenditure involved shall be debitable to the respective Head of the Defence Services Estimates.

This issues with the concurrence of the Ministry of Defence (Finance Division) vide their interdepartmental No.1755/Dir (AF/Eqpt) of the 15th October, 1984."

When the above letter was circulated amongst different units, various units sought clarification from the Army Headquarters. The Army Headquarters directed all Regimental Centres vide letter No.89550/Pay/Org. 1(Pers) (a) dt. 19.9.1986. as follows:

" The following categories of civilian personnel were sanctioned the revised scale vide Ministry of Defence letter No. 1(2)/80/D (ECC/IC) dt. 22 Aug 83 (CPRO 81/83) as indicated against each:-

S.No.	Job Group	Pay scale	
		Existing (Rs.)	Revised (Rs.)
(a)	Bootmaker	<u>200-250</u> 196-232	210-290
(b)	Carpenter	225-308	210-290
(c)	Painter (1RC)	225-308	210-290
(d)	Tailor	<u>200-250</u> 210-270	210-290

2. In accordance with para 3 of the above mentioned Govt. letter where the fitments result in downgradation of jobs, incumbents thereof should be allowed to draw pay in their present scales of pay till they are wasted out or promoted to the next higher post. Further entrants/promotees of these jobs should, however, be given the revised scales.

3. Vide Govt. of India, Ministry of Defence letter

No.3822/DS/(O&M)Civ-1/84 dt. 15.10.84, sanction has been accorded for upgradation of following trades from semi-skilled (210-290) to Skilled Grade (Rs.260-400) :-

- (i) Bootmaker
- (ii) Carpenter
- (iii) Painter/Painter III
- (iv) Painter (IRC)

4. From the correspondence received from various units it was observed that some of the employees were still carrying the old scales. Ministry of Defence was therefore requested to clarify the following points:-

(a) whether employees carrying old scale of Rs.210-250, 196-232 and Rs.210-270 can be authorised the revised scale of Rs. 210-290 under the provisions of CPRO 81/83.

(b) Employees carrying the pay scale of Rs.210-290 have been sanctioned the revised scale of Rs.260-400 vide Ministry of Defence letter dt. 15 Oct, 1984, mentioned in para 3 above, Confirm that the revised pay scale of Rs.260-400 can be further given to employees referred to in para 4 (a) above, w.e.f. 15 Oct. 1984.

(c) Confirm that the employees who were carrying the old pay scale of Rs.225-308 can be authorised the pay scale of Rs.260-400 under the provisions of Ministry of Defence Letter dt. 15 Oct. 84 ibid.

5. Ministry of Defence have now clarified the points mentioned in para 4(a) to (c) above as indicated below:-

- (a) Yes.
- (b) Yes w.e.f. 15 Oct. 84.
- (c) Yes w.e.f. 15 Oct. 84 even if they had opted for old scales.

6. In view of the above you are requested to ensure that the personnel concerned are authorised the revised scales accordingly.

7. A confirmation to the effect that the above orders have been implemented be sent so as to reach this Headquarters latest by 1 Oct. 1986."

Subsequently, on the clarification by Ministry of Defence, the Army Headquarters issued the following letter:

" 1. Ref your letter No.500/C/69/CA(Civ) dt. 15. Dec. 1997.

2. MOD/D(Civ-I) has clarified that only those trades which have been given upgraded skilled grades in MOD letter No. 3822/DS (O&D) Civ-1/84 dt. 15 Oct 84 in the respective organisations can be given the skilled grade and no other tradesmen. The clarification in para 5(b)

of Army HQ letter No.89550/Pay/Org 1 (Pers) dated 19 Sep. 86 could not have been for those trades which had not been included in MOD letter mentioned above.

3. In view of the above, you are requested to disseminate the above clarification to all concerned for their appropriate action".

This was followed by Adjutant General's Branch at Army Headquarters ^{letter} that category of Tailor had not been granted the skilled grade (260-400) by any Government Order in Adjutant General's Branch. That gave rise to following letter dt. 18.12.1998 of Record Officer which is the impugned order :

1. Further to our letter No.500/C/63/ER(Civ) dated 14 Nov 98.

2. Army Headquarters vide letter No.B/87068/AG/PM-2 dt. 7 Dec. 98 and No.53281/Misc./Org 4 (Civ) (d) dt. 8.12.1998 (Copies att) have intimated this office that the Ministry of Def/D(Civ-I) has clarified that only those trades which have been given upgraded skilled grades in Min of Def letter No.3822/DS (C&D) Civ-I/84 dt. 15 Oct. 84 in the respective organisations can be given the skilled grade and no other tradesman. Since Tailor category has not been upgraded to skilled grade vide Min of Def letter dt. 18 Oct 1984, the pay scale of Rs.260-400 is not applicable to Tailor category working in Provost Units and CMP Centre & School. The correct pay of Tailor category as per Vth Pay Commission recommendations is Rs.2650-65-3300-70-4000. You are requested to fix the pay of the above category accordingly.

3. Please ack."

It is in pursuance of this letter of 18.12.1998 that applicant's claim ^{that} they are being wrongly down-graded and are faced with recovery of difference between the pay scale of Rs.210-290 equivalent to Rs.2650-4000 as they have been paid in the pay scale of Rs.260-400 equivalent to Rs. 3,050-4,590. Aggrieved, the applicants by above OAs have prayed for a declaration that orders dt. 18.12.1998 and further 3.4.1999 be quashed and it may be declared that they have been correctly drawing the basic pay

in the scale of Rs. 3,050-4,590, which cannot be reduced and no arrears can be recovered from them.

6. These OAs have been opposed by the Respondents by filing their written statement. The case, in substance, according to Respondents is that the Tailors of Adjutant General's Branch, as well as, branches to which other applicants belong were neither upgraded as Skilled from semi-skilled non-industrial nor their basic pay scale was revised by any Government Order entitling them to revised Pay scale as claimed. They were being wrongly treated as skilled employees and it was by mistake that they were given revised pay scale of Rs.260-400 (Rs.3,050-4,590) instead of Rs.210-290 (Rs.2,650-4,000), this mistake stands corrected by the Respondents and that is all what has been done by the impugned order.

7. The Learned Counsel for Applicants contended that the nature of job of Tailors is skilled and they were rightly upgraded as skilled industrial workers and given the pay scale of Rs. 260-400 in view of the recommendation of Anomalies Committee/TITrd Pay Commission. The Learned Counsel relied on the Orders passed by different Benches of the Central Administrative Tribunal viz. 1) Bangalore Bench decision in OA 147 & 383 to390 of 1996 P.Padmanabhan & Ors. Vs. Union of India & Ors. decided on 31.1.1997, against which Respondents preferred a Special Leave Appeal (Civil)(cc 381-391/98) was dismissed by the Hon'ble Supreme Court of India on 23.1.1998. 2) OA 56/1995 Eshawarlal Vs. Union of India & Anr. decided on 18.1.1995 by the Hyderabad Bench of the Tribunal, 3) OA 161/95 B.Ramdas Vs. Union of India decided on 9.2.1995 by the Hyderabad Bench of this Tribunal, 4) OA 158/94 Sh. Nripendra Mohan Paul Vs. UOI & Ors. decided on 19.10.1995 by Guwahati Bench, 5) OA 1321/CH/97 Ranjit

Singh & Ors. Vs. UOI & Ors. decided on 5.3.1999 by the Chandigarh Bench. It has also been contended that as SLP against the order of Bangalore Bench in OA No.147 & 383 to 390 of 1996 in the case of P.Padmanabhan & Ors. Vs. Union of India & Ors. (supra) was dismissed by the Apex Court on merits, hence, similar proposition of law, which arise in these O.As, has been upheld by the Supreme Court of India, and therefore that decision is binding on this Tribunal in respect of questions raised in these OAs.

8. Before taking up other question we would like to dispose of the argument of Counsel for Applicants to the fact that the order of Bangalore Bench being upheld by the Hon'ble Supreme Court of India, wherein similar questions in respect of Tailors working under the Ministry of Defence stands determined, has binding effect on this Tribunal as the controversy herein is similar to that matter. But, under law, such a binding effect is only in respect of legal proposition and not where an SLP is dismissed without assigning reasons. This principle of law stands determined by an order of Full Bench of Principal Bench of the Tribunal. In the case relied upon by the applicants, the order passed by Apex Court reads as follows:

"In view of the decision of this Court in C.A. Nos.8348-8356 of 1997 decided on 25.11.1997, these SLPs are dismissed on merits."

The Supreme Court of India refused to grant leave on Special Leave Application. It has not assigned reasons for coming to said conclusion. The Special Leave stands refused by a non-speaking order. A Full Bench of Principal Bench of the

Central Administrative Tribunal in OA No.1676/90, T-106/86 (S.No.418/83) Suresh Chand Gautam and Ors. Vs. Union of India & Ors. decided on 9.7.1991 explained where SLP was dismissed on merits without deciding the proposition of law, it is not a declaration of law under Article 141 of the Constitution of India. The Apex Court itself has laid down that the "dismissal of a Special Leave Petition in limine by a non-speaking order does not justify any inference that, by necessary implication, the contentions raised in the Special Leave Petition on the merits of the case have been rejected by the Supreme Court. It has been further held that the effect of a non-speaking order of dismissal of a Special Leave Petition without anything more indicating the grounds or reasons of its dismissal must, by necessary implication, be taken to be that the Supreme Court had decided only that it was not a fit case where Special Leave Petition should be granted". (See Employees Welfare Association Vs. IOT & Anr. ATR 1990 SC 334). In view of the above declaration of law by Apex Court and explained by the Full Bench of Principal Bench in the case of Suresh Chandra Gautam (supra), the contention of Learned Counsel for Applicants is unsustainable. The arguments of Learned Counsel for applicants that the order of Suresh Chandra Gautam's case being confirmed by the Supreme Court and this Tribunal cannot go into similar question fails.

9. Examining these cases on merits, it is apparent from the narration of facts that the Ministry of Defence by letter No.3822/DS (O&M)/CW-I/84 dt. 15.10.1984 upgraded following trades from semi-skilled to skilled grade viz. Bootmakers, Carpenters, Painters/Painters - III and Painter (IRC) the existing scale of whom was Rs.210-290. They were given pay scale of Rs.260-400 in supersession of all earlier orders in regard to fitment of non-industrial workers. This was done on the recommendation of Anomalies Committee/Third Pay Commission. The Tailors job, which was admittedly, a semi-skilled job was not included in it. However, subsequently Tailors trade was declared upgraded to skilled grade, on seeking clarification by various units by Army Headquarters. The Army Headquarters clarified that employees carrying pay scale of Rs.210-290 had been sanctioned revised scale of Rs. 260-400 by Ministry of Defence. Subsequently, the Army Headquarters said in its clarification that upgraded skilled grades can be given to the trades mentioned in the letter of Ministry of Defence dt. 15.10.1984 and could not be for those grades which were not included in the Ministry of Defence letter. This clarification being followed by another letter of Army Headquarters, wherein it was clarified that Tailors had not been granted the skilled grade. Under such circumstances, the Army Headquarters directed by letter dt. 18.12.1998 that the pay scale of Rs.260-400 is not applicable to Tailor category and therefore, as per Fifth Pay Commission recommendation, they are entitled to Rs.2,650-4000, which is equivalent to Rs.210-290, ^{so it} is to be fixed accordingly. It is not in dispute that power to upgrade the posts vested with the Ministry of Defence and Army Headquarters only clarified what was directed by the Ministry.

The letter of upgradation of Tailors from semi-skilled to skilled by Ministry, category nowhere specifically mentioned / The case of the Respondents is that it was a mistake in interpreting the order of Ministry by Army Headquarters which has been corrected by the impugned order. The narration of facts on its face also show that it appears to be mistake on the part of the Army Headquarters in circulating letters dt. 19.9.1986 and 22.8.1983 and by impugned order correct position stands restored. The impugned order gives effect to the decision of Ministry which did not upgrade the job of Tailors.

10. To meet the above position, the Learned Counsel for applicants argued that all the jobs which were of semi-skilled nature were upgraded as skilled. There is no decision of the Ministry of Defence to that effect on the record and, therefore, even if Army Headquarters did clarify that all the jobs of semi-skilled nature stood upgraded by letter in question of Ministry of Defence, then the only conclusion to be drawn is that it is a mistake by the Army Headquarter in giving such an interpretation. However, there was no ambiguity in letter of Ministry of Defence which, while specifying all the trades it considered to be upgraded, left out Tailors. In such a situation even clarification by Defence Ministry was not required. Otherwise also, as it was beyond the scope of power of Army Headquarters to upgrade the jobs and revise the pay scale and it could only carry out specific orders of the Ministry, the clarification of the Army Headquarters is to be treated as mistake only.

11. Here, we would like to observe that whether a job be treated semi-skilled or skilled is a policy matter to be determined by the Ministry with the help of experts, who are

acquainted with the nature of job. It is not for this Tribunal to declare a job to be skilled or semi-skilled when the Ministry of Defence has considered the matter taking into consideration relevant factors, which have not been challenged on facts. Under law, it is beyond the scope of power of Tribunal to substitute its decision in such matters by declaring job in question to be a skilled job or applicants being entitled for revised pay scale.

12. The learned counsel for applicants referring to facts of some OAs under consideration, tried to show that the action of the Ministry in upgrading some jobs from semi-skilled to skilled grade and revising pay scale of those jobs alone while leaving out applicants job of Tailors from the skilled grade is unreasonable and bad in law. It is correct that some jobs have been upgraded and pay scale has also been revised by the Ministry, but that was done on recommendation of Anomalies Committee/Third Pay Commission. The Third Pay Commission was an expert body entrusted to recommend what jobs be upgraded and pay scale be revised. The Third Pay Commission recommendation is not under challenge. The applicants have neither challenged recommendation of Anomalies Committee/Third Pay Commission nor they are seeking any relief against procedure adopted and conclusion drawn by it. There is presumption that such a body has taken into consideration all the relevant factors in making its recommendation. Therefore, as it did not recommend the Tailors trade to be upgraded as skilled and pay be revised and when the Ministry of Defence has ^{only} followed the recommendation of Anomalies Committee/Third Pay Commission recommendation, which is apparent from tenor of letters mentioned earlier, it cannot be considered discriminatory nor one can say that classification is not a reasonable classification.

13. So far as arguments in respect of arbitrary/discrimination is concerned, in classifying and categorising Tailors from other different trades because the trade of Bootmakers, Carpenters, Painters were upgraded, the said trades involved different process and nature of work. They cannot be equated with Tailors. The two jobs are different. They are not per-se discriminatory. Therefore, it is held that the applicants have failed to establish discrimination with the jobs of Bootmakers, Carpenters and Painters.

14. The Learned Counsel for applicants, in support of their contention cited decision of OA 158/1994 : Nripendra Mohan Paul (supra), wherein Gauhati Bench of Central Administrative Tribunal held that Tailoring job in Ordnance Department of Army was skilled and relief was given to the Tailors on that basis. That case was decided before any clarification could be given by Army Headquarters for correcting the mistake. The case was decided without a plea of mistake being there, as well as, for want of further clarification of Army Headquarters. In other words, it was decided before present clarification of Army Headquarters in the year 1998 wherein according to order cited before us, the allegation made in the OA was that Tailoring job in Ordnance Factories is skilled job, which was not denied by respondents in that case. In absence of above aspect, which is weighing with us, the applicants cannot be given any benefit. Even if facts of some case being Tailors is there, no benefit can be given to applicants when above position stands clarified before this Full Bench and we hold that the pronouncement of that case is not a good law. The Learned Counsel has also pointed out that the Judgment was upheld by the

Supreme Court of India by dismissing the Special Leave Petition of Respondents on merits. The Special Leave Petition has been dismissed by a non-speaking order. As observed earlier, a non-speaking order of Apex Court is not a law declared by that Court and therefore, the applicants do not get any benefit out of it.

15. Another case relied upon is of Ranjit Singh & Ors. Vs. Union of India & Ors. (supra). It is in respect of Tailors of M & G wherein the relief has been granted to applicants by a Bench of Central Administrative Tribunal at Chandigarh. The relief has been granted relying upon case of Nripendra Mohan Paul (supra), which we are constrained to hold that it did not lay down good law. The applicants do not get benefit out of this case also.

16. Similar is the position in respect of the case of the Central Administrative Tribunal Bangalore Bench in OA Nos. 147 & 383 to 390/1996 P.Padmanabhan & Ors. Vs. Union of India & Ors. (supra), order of which was passed in 1991. It is based on the decision of Prabhulal and Anr. Vs. Union of India which is based on another Judgment. However, in that case, the only ground given is that because same benefit was extended to other similarly placed employees in a case before the Supreme Court of India, therefore it was being given. Merely because some employee gets benefit by a wrong decision of a Bench cannot be a ground for granting benefit to others.

17. The next cases cited were of Eshawarlal and B.Ramdass (supra), wherein the Hyderabad Bench relying upon the order of the Bangalore Bench of the Central Administrative Tribunal passed the order granting the relief to Tailors holding that there is

discrimination in not upgrading the posts of Tailors and limiting it to specific trades. While passing the order the Bench has observed that benefit cannot be limited to the trade specified and that is how it has given the benefit to applicants Tailors of that case without assigning any reason of its own. However, as that decision does not lay down correct law for reasons mentioned earlier, we dis-approve it.

18. Thus, on the discussion above, we find that it is due to the mistaken advise of Army Headquarters on seeking of clarification by various units that Army Headquarters erred in clarifying that semi-skilled grade of Tailors were upgraded to skilled grade and their pay scale was revised from 210-290 to 260-400 by Anomalies Committee/Third Pay Commission. It was a mistake on the face of it on part of Army Headquarters as Ministry of Defence never upgraded the semi-skilled Tailors grade and by impugned order that mistake has been set right by Respondents. The order in question gives effect to the policy decision of Ministry of Defence in correct perspective. The Army Headquarters which is obliged to give effect to order of said Ministry had rightly corrected its mistake. Thus, no ground for interference by this Tribunal on merits is made out. All the OAs are liable to be dismissed.

19. Before parting with the case, we would like to observe that the applicants, who have drawn revised pay due to mistake in question or have been paid arrears due to that mistake shall not be required to refund the same. We consider such order necessary as due to a mistake on the part of Army Headquarters, the applicants were paid more than what they were entitled. It is a

fact accomplished due to which Respondents must have expended money considering it to be their entitlement and it will cause hardship to them if they are made to bear for the fault of Army Headquarters. In the circumstances, it will not be fair to applicants if respondents are allowed to recover the difference of amount between money paid as salary. The Learned Counsel for the Respondents Shri R.R.Shetty could not say much against it. As we are of opinion that it will be too harsh to allow recovery of amount paid to applicants. Under the circumstances, it is declared that the Respondents shall not be entitled to make recovery of excess amount already paid to applicants.

20. It is for above reasons that on 27.4.2001 we dismissed all the OAs (viz. 735/99, 740/99, 891/99, 971/99, 122/2000 and 252/2000) by passing following operative part of order in present group of applications :

"1. For reasons ~~to be separately~~ recorded, we hold that the impugned order clearly corrects the mistake made and is, therefore, valid. We further hold that the decisions by the different Benches of the Tribunal taking a contrary view are erroneous and the same are accordingly over-ruled.

2. In view of the aforesaid finding, the present group of OAs are dismissed. The decision of the respondents, insofar as it seeks to make recoveries of the excess payments made on the basis of placing the applicants erroneously in a higher pay scale will not be enforced. No orders as to costs."

MEMBER(A)

VICE-CHAIARMAN

CHAIRMAN

B.