

CENTRAL ADMINISTRATIVE TRIBUNAL: MUMBAI BENCH

ORIGINAL APPLICATION NUMBER 58 OF 1993

FRIDAY, THIS THE 2ND DAY OF JULY, 1999.

Shri Justice S.Venkataraman, ... Vice-Chairman.

Shri S.K.Ghosal, ... Member(A).

1. A.B.Deshmukh,
Aged 32 years.
2. S.V.Kare,
Aged 36 years.
3. D.S.Bhingare,
Aged 48 years,
4. V.T.Gaikwad,
Aged 51 years.
5. M.L.Choudhary,
Aged 50 years.
6. S.S.Gaikwad,
Aged 52 years.
7. V.S.Sarode,
Aged 45 years,
8. H.K.Hole,
Aged 50 years.
9. A.T.George,
Aged 52 years,
10. S.C.Bhore,
Aged 53 years.
11. T.L.Shinde,
Aged 49 years.
12. S.S.Bhalerao,
Aged about 35 years.
13. S.D.Mhaske,
Aged 35 years.
14. G.K.Gaikwad,
Aged 33 years.

... Applicants.
Contd..

15. C.R. Khage,
Aged 35 years.
16. C.R.Dhanwate,
Aged 38 years.
17. S.P.Pansare,
Aged 34 years.
18. R.K. Kamble,
Aged 35 years.
19. S.S.Kadam,
Aged 36 years.
20. S.T.Raghmahale,
Aged 35 years.
21. S.M.Palande,
Aged 40 years.
22. N.D.Thorat,
Aged 40 years.
23. S.B.Bhosale,
Aged 35 years,
24. K.A.Joseph,
Aged 40 years.
25. M.T.Banerjee,
Aged 40 years.
26. S.B. Deshpande,
Aged 35 years.
27. A.D.Bhosale,
Aged 32 years,
28. S.G.Dhadwad,
Aged 52 years,

Occupation of all: Service,
Serving in Research & Development
Establishment (Engrs)
Dighi, Pune, as Skilled Workers
in different trades.

.. Applicants.

(By Advocate Shri S.M.Chitale)

v.

1. Union of India
through Secretary, Ministry of
Defence, Government of India,
New Delhi.

.. Respondents
(Contd..)

2. The Scientific Adviser,
Minister of Defence and Director
General Research and Development
Research and Development Organisation,
Ministry of Defence, New Delhi.
3. The Director,
Research and Development
Establishment (Engrs) Dighi,
Pune. .. Respondents.

(By Standing Counsel Shri R.K.Shetty)

O R D E R

Shri S.K.Ghosal, Member(A):-

The applicants in this case are now working in various trades in the skilled category under the control of the Director, Research and Development Establishment, Pune, i.e., respondent-3. Their main case is that on the lines of certain other semi-skilled trades, which were identified by the Anomalies Committee in 1984 for upgradation to the skilled grade, their trades should be deemed to have been upgraded similarly and that they should be granted the benefits like the pay scale for the skilled category arising from such upgradation with effect from 16-10-1981, following the instructions issued by the 1st respondent dated 19-3-1993 applicable to the specifically identified semi-skilled trades.

2. According to the applicants, the distinction drawn between the trades which were identified for upgradation as skilled trades in 1984 by the Anomalies Committee, numbering 11, and the trades in which they have been employed is invidious and in contravention of the equality doctrine enshrined in Articles

29

14 and 16 of the Constitution. The applicants have also relied on the ratio of a judgment of the Hon'ble Hyderabad Bench of this Tribunal rendered in O.A.No.363 of 1988 dealing with the employees in the Defence Research and Development Laboratory. There the Hon'ble Hyderabad Bench, in turn, depended upon the ratio in the now celebrated case of BHAGWAN SAHAI CARPENTER AND OTHERS v. UNION OF INDIA AND ANOTHER [reported in (1989) 10 ATC 70 (SC)]. The Hyderabad Bench felt in the said case that the Apex Court had turned down the rationale for any such distinction between one group of semi skilled grades which was identified for upgradation retrospectively and all other groups of semi skilled trades. We shall have the occasion to examine shortly the precise distinction that the Hon'ble Supreme Court had considered in the above case.

3. This Bench, of which both of us are members, while sitting at Nagpur was called upon last week in O.A.Nos.505 of 1995 (decided on 25-6-1999) to decide similar issues arising in the context of claims by the workers belonging to certain semi skilled and skilled trades working in the Ordnance Factories. We discussed there in detail the principles laid down by the Apex Court in Bhagwan Sahai Carpenter's case as well as in a later case of ASSOCIATION OF EXAMINERS, MURADNAGAR ORDINANCE FACTORY v. UNION OF INDIA AND OTHERS [reported in (1993) 24 ATC 361] decided on the basis of the ratio in Bhagwan Sahai Carpenter's case. It is evident that in both these cases what the Hon'ble Supreme Court had to adjudicate was the distinction which was drawn by the administration initially for the purpose of granting the benefit of upgradation with retrospective effect between

AS

certain semi skilled trades which were identified by the Expert Classification Committee in 1981 and those which were identified subsequently by the Anomalies Committee in 1984. The Apex Court held that once the workers belonging to those specifically identified semi skilled grades were given the benefit of upgradation as skilled grades and the higher scale of pay applicable to the skilled grades was made available to them, no further distinction can be made between those specifically identified groups of semi skilled trades with reference to the point of time w.e.f. which those benefits would accrue to them. The Apex Court, therefore, laid down the rule that any such distinction would be violative of the provisions of Articles 14 and 16 of the Constitution of India and would, therefore, be invalid. It is evident that the Hon'ble Supreme Court has not laid down any general rule that all semi-skilled trades are on the same footing for the purpose of upgradation.

. 4. We are of the considered view that the ratio employed by us there is squarely attracted in this case. Here again, we are called upon to decide whether on the ground that certain specified categories of semi skilled grades were identified for the purpose of upgradation to the skilled grades and they were granted the benefit of such upgradation, by the mere fact that a large number of workers were employed in certain other semi skilled trades around the same time, ^{they} should also be automatically granted the similar benefit of upgradation. We are unable to persuade ourselves that such a claim can be allowed. It has not been established that all semi skilled trades have

29

similar merits for the purpose of identification for upgradation as skilled grades. It is evident that both the Expert Classification Committee and the Anomalies Committee had adopted a system of points scoring in respect of the semi skilled trades and based on the points so scored certain semi skilled trades only came to be identified for the purpose of upgradation as skilled trades. It is not denied that the 11 trades which were identified by the Anomalies Committee under the administrative control of the 3rd respondent were so identified by the Anomalies Committee based on the same points scoring system. We do not consider it appropriate for the Tribunal to undertake an exercise in respect of the remaining semi skilled trades based on the method adopted by the Anomalies Committee and decide whether or not some or/all of the other semi-skilled trades can also be upgraded, that too retrospectively. We do not think that this Tribunal is competent to undertake any such exercise.

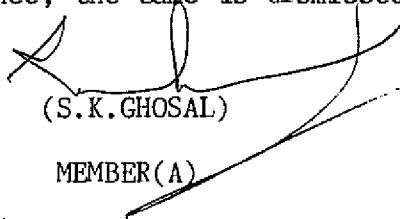
5. At the stage of arguments to-day, the learned counsel for the respondents has brought to our notice a subsequent decision of the same Hon'ble Hyderabad Bench of this Tribunal in O.A.Nos.270, 271, 497 and 260 of 1997 rendered on 3-3-1999. That Bench in the said decision has observed that it is not possible for the Government to give the benefit to all the semi skilled trades with effect from 16-10-1981 in view of huge financial implications. The decision aforesaid further states that the Tribunal cannot give a direction without taking due note of the financial liability of the Government to pay. In the operative part of the order it is also mentioned by that Bench that the notification impugned there, which treated the

AD

11 identified grades as eligible for certain benefits "had been issued after giving proper consideration to the request of the employees and after taking into account all the factors mentioned in the various O.As filed before this Bench as well as the views expressed by the Full Bench in O.A.No.111 of 1991".

6. We are of the opinion that the above decision being on the specific issue as to whether the other semi skilled trades under the administrative control of the 3rd respondent could be upgraded only because a certain number of semi skilled grades had been upgraded earlier would be pertinent in this context. We are persuaded further to apply also that ratio in the present case.

6. For the reasons discussed above, we do not find any good ground for granting the reliefs sought in the present O.A. Hence, the same is dismissed. No costs.



(S.K.GHOSAL)

MEMBER(A)

np/



(S. VENKATARAMAN)

VICE-CHAIRMAN.