

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CAMP AT NAGPUR

FRIDAY the 16th day of August 1996

Original Application No. 60/93

Ayudh Nirmani Mazdoor Sangh
Ambajhari Defence Project
C/o Quarter No.7/46/1, Type II
Ordnance Factory, Ambajhari,
Nagpur - 21.
Represented through its General
Secretary Shri S.M. Badwaik,
R/o Ordnance Factory
Ambajhari, Nagpur - 440 021.

Shri D.U. Jagtap,
Machinist, Fuse-shop
Ordnance Factory,
Ambajhari, Nagpur.

Shri P.R. Patil
Fitter (General), B.M. Section
Ordnance Factory, Ambajhari, Nagpur

Shri S.V. Rahatekar,
Miller, Tool Room Section
Ordnance Factory, Ambajhari, Nagpur

Shri A.K. Shukla
Turner, Tool Room Section,
Ordnance Factory, Ambajhari, Nagpur.

Shri P.C. Meshram,
E & M Section, Messon,
Ordnance Factory, Ambajhari, Nagpur. ... Applicants.

Original Application No. 604/94

Bhartiya Suraksha Karmachari Sangh,
Ordnance Factory, Chandrapur,
through its General Secretary
Shri A.R. Kute mate, Quarter No.
65-C, Type I, Sector IV,
Ordnance Factory Estate, Chandrapur-442501.

S.M. Duryodhan, Mason,
Ordnance Factory, Chandrapur. ... Applicants.

Original Application No. 630/94

Ayudh Nirmani Mazdoor Sangh,
Ordnance Factory, Ambajhari, Nagpur
through its General Secretary
Shri K.T. Buche, R/o Quarter No.7/46/1
Type II, Ordnance Factory Estate,
Ambajhari, Nagpur.

Shri Balwant Govindrao Bhoge,
Aged about 41 yrs. Occ. Service,
R/o Qtr.No.8/32/C, Type II, Ordnance
Factory Estate, Ambajhari, Nagpur. ... Applicants.

By Advocate Shri P.S. Sadavarte.

v/s.

The General Manager,
Ordnance Factory,
Ambajhari, Nagpur- 440 021.

Chairman,
Ordnance Factory Board,
10-A, Auckland Road,
Calcutta - 700 001.

The Secretary,
Union of India
Ministry of Defence Production
New Delhi.

... Respondents.

By Advocate Shri M.G. Bhangade.

CORAM: Hon'ble Shri B.S. Hegde, Member(J)

Hon'ble Shri P.P. Srivastava, Member(A)

O R D E R

(Per Shri B.S. Hegde, Member (J))

Heard Shri P.S. Sadavarte, counsel for the applicant and Shri M.G. Bhangade, counsel for the respondents.

2. The applicants in these O.A.s are claiming that by virtue of the upgradation of Trades in the scale of Rs. 260 - 400 to all industrial workers in all the trades (1) to (18) with effect from 16.10.1981 instead of 15.10.84 or in the alternatively award the benefit to the employees whose names are set-out in the Annexure No.I with effect from 16.10.81 instead of 15.10.84 and pay arrears of pay on their fitment in the said grade of 260 - 400 with effect from 16.10.81 till date.

3. Perused the records of all the O.A. since the issue involved in all these O.A.s are one and the same, accordingly we dispose of the O.A.s by passing a common order.

4. The learned counsel for the applicant urged that the order of the respondents dated 19.3.93 is not in consonance with the subsequent order passed by the respondents dated 17.5.93. The respondents letter dated 19.3.93 reads:

" for up-gradation of certain trades in semi-skilled grade (Rs. 210-290 pre-revised) to skilled grade (Rs. 260 - 400 pre-revised) w.e.f. 15.10.84 in pursuance of recommendations made by the Anomalies Committee.

The issue of ante-dating of the pay scale of the skilled grade of industrial workers from 15.10.84 to 16.10.81 in respect of the categories mentioned in para (i) of the Govt. letters of 15.10.84 under reference was engaging the attention of Govt. for some time past in the wake of Supreme Court Judgement in W.P. 12259-66/1984 filed by Shri Bhagwan Sahai & others of MES. President is now pleased to decide that all the trades which had been granted the 'skilled' grade from semi skilled grade w.e.f. 15.10.84 in terms of Govt. letter of 15.10.84 will now be given the benefit of the skilled grade (Rs. 260 - 4000 w.e.f. 16.10.81.

All other conditions mentioned in the Govt. letter dated 15.10.84 will remain unchanged. The aforesaid antedating of the benefit of the skilled grade will also not give any retrospective application of para 1(ii) of Government letter of 15.10.84."

5. Subsequent letter issued by the respondents vide dated 17.5.93 states that:

" The following Trades which had been granted the 'skilled' grade from 'semi-skilled' w.e.f. 15.10.84 in terms of Govt. letter No.3808/DS (C&M)/Civ.1/84 dated 15.10.84 will now be given the benefit of the pay scale of the 'skilled' grade (Rs. 260 - 400) with effect from 16.10.81. The benefit of upgradation of pay scale w.e.f. 16.10.81 will be given to those Industrial Employees only who were in semi-skilled grade on 16.10.81

6. The learned counsel for the applicant contends that the letter of the respondents dated 19.3.93 refers to Supreme Court decision in Bhagwan Sahai's case. Therefore, those persons who were appointed between 16.10.81 and 15.10.84, should be given the scale of up-gradation of post automatically from their respective date of promotion. It is an admitted fact that all the applicants were appointed during the period 1981-84. Therefore, they contend that having given the retrospective effect with effect from 16.10.81 they should also be given the same benefit as was given to those who were in service as semi-skilled grade on 16.10.81. In this connection, it is relevant to refer to the decision of the Supreme Court dated 31.7.91 in Association of Examiners, Muradnagar Ordnance Factory v/s. Union of India and others 1993 SCC(L&S) 587.

7. Considering the rival contention of the parties, Court observed that the Anomalies Committee's Report suggested that the semi-skilled employees who were in position on 16.10.81 in the grade of Rs. 210 - 290 should be up-graded to the skilled category of Rs. 260 - 400 with effect from that date. So far as 'fresh induction' to the skilled category was concerned the Committee formulated certain propositions which are to be found in clauses 'a' to 'c' of clause (iv) of the recommendations of the Anomalies Committee in Chapter X of the report. It is therefore obvious that those employees who belong to the semi-skilled category and were in position on 16.10.81 in the grade of Rs. 210 - 290 were to be upgraded to the skilled category carrying a scale commensurate of Rs. 260 - 400 with the point-score given by the Committee. In view of the ratio of this Court's decision in Bhagwan Sahai Carpenter v. Union of India vide paragraph 11 of the judgement. Those who

were not in position as on 16.10.81 in the semi-skilled grade of Rs. 210 -290 will be entitled to placement in the skilled category of Rs. 260 - 400, if they satisfy the requirements of clause 'a'"b' and 'c' of clause (IV) in Chapter X of the Anomalies Committee's Report to the extent of its acceptance, with or without modifications by the Government of India.

8. Pursuant to the directions of the Supreme Court, the respondents have issued the letter dated 19.3.93 and further clarifying the same and reiterated by their letter dated 17.5.93. It is urged that the aforesaid letters were issued in accordance with the directions of the Appex Court in the aforesaid case. Only the posts are upgraded and not the persons and the conditions laid down in their letter dated 15.10.84 remain unchanged.

9. The learned counsel for the respondents Shri Bhangade submitted that the applicants did not come within the parameter laid down by the Supreme Court direction. All the applicants were appointed subsequent to 16.10.81 and before 15.10.84. In accordance with the recommendation of the Anomalies Committee which clearly states that Fresh induction to the trades which have been evaluated as skilled should be as follows:

" Semi-skilled categories, promoted from the un-skilled grade, and who have rendered a minimum of three years service in the semi-skilled grade and after passing the prescribed trade test.

the feeder categories in the scale of Rs. 210 -290 wherever they exist, such as Filer, Viceman, Hammerman, etc.

Direct recruits with ITI certificate/diploma ex-trade apprentice/National Certificate of Technical Vocational Training conducted by Ministry of Labour inducted in the semi-skilled grade and allowing them adequate time for on the job training for a period of two years.

10. Shri Bhangade further urged that the letter dated 15.10.84 will remain unchanged. There is no contradiction in the letter dated 19.3.93 as well as 17.5.93. Both the letters are on the basis of the recommendations of the Anomalies Committee.

11. During the course of hearing the learned counsel for the respondents has also drawn our attention to the decision rendered by this Tribunal in O.A. 707/93 decided on 21.3.96, the Tribunal after considering held that " having not find any merit in the O.A. and the same was dismissed.

12. Since the directions of the Supreme Court is very clear that those who come within the specified period they would be given the scale of upgraded scale and it is not the contention of the applicant that they have complied with the conditions of the respondents letter dated 15.10.84, their only contention is that in these O.As they should be given the same benefits as given to those who were in semi-skilled category with effect from 16.10.81.

13. We do not see any contradiction in the order passed by the respondents dated 19.3.93 as well as 17.5.93, which is purely an administrative order

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

R.P.NO.34/97 in OA.NO.604/94, R.P.NO.35/97 in OA.NO.60/93,
R.P.NO.32/97 in OA.NO.630/94.

Tuesday this the 15th day of July 1997

CORAM: Hon'ble Shri B.S.Hegde, Member (J)
Hon'ble Shri P.P.Srivastava, Member (A)

Tribunal's Order by Circulation

The applicants are seeking review of the judgement dated 16.8.1996. The short point for consideration in the OA. was that the applicants are claiming that by virtue of the upgradation of Trades in the scale of Rs.260-400 to all industrial workers in all the trades from (1) to (18) with effect from 16.10.1981 instead of 15.10.1984 or in the alternatively award the benefit to the employees whose names are set-out in the Annexure No.I with effect from 16.10.1981 instead of 15.10.1984 and pay arrears of pay on their fitment in the said grade of 260-400 with effect from 16.10.1981 till date. This was necessitated pursuant to the decision of the Supreme Court in Association of Examiners, Muradnagar Ordnance Factory vs. Union of India & Ors. 1993 SCC (L&S) 587, dated 31.7.1991. Keeping in view of the ratio laid down in that judgement and on the basis of Anomalies Committee's Report, it is submitted that the semi-skilled employees who were in position on 16.10.1981 in the grade of Rs.210-290 should be up-graded to the skilled category of Rs.260-400 with effect from that date. So far as 'fresh induction' to the skilled category was concerned the Committee formulated certain propositions which are to be found

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in clauses 'a' to 'c' of clause (iv) of the recommendations of the Anomalies Committee in Chapter X of the report. It is, therefore, obvious that those employees who belong to the semi-skilled category and were in position on 16.10.1981 in the grade of Rs.210-290 were to be upgraded to the skilled category carrying a scale commensurate of Rs.260-400 with the point-score given by the Committee. Since the applicants did not come within the parameter of the Supreme Court decision and all the applicants were appointed subsequent to 16.10.1981 and before 15.10.1984, they could not be given the benefit. The only contention raised by the applicants that they should be given the same benefits which are denied by the Committee and by the Tribunal's order. Accordingly, the order issued by the respondents dated 19.3.1993 as well as 17.5.1993 were upheld and the same were passed in accordance with the decision of the Hon'ble Supreme Court as well as the recommendation of the Anomalies Committee.

2. Though the judgement was delivered on 16.8.1996, the Review Petition is filed by the applicant on 6.3.1997. As per CAT Rules, review petition can be filed within 30 days of receipt of order of the OA. In this case, the review petition is filed after six months' delay for which applicant has filed M.P. for condonation of delay. The explanation given by the applicants is not satisfactory and the grounds in the R.P. and the OA. are the same. The scope of the review is very limited ^{16.5.7.97} order/Judgement despatched and it is not open to the applicant to re-argue the matter to Applica. respondent(s) on 24.7.97 on the same grounds. Option is open to the applicant to file an appeal and not the review. The Review Petition is dismissed.


(P.P. SRIVASTAVA)
MEMBER (A)


(B.S. HEGDE)
MEMBER (J)