

O.S. No. 1435/95
1125/100A 1435/95

Deposition
for Issued

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

1. Original Application No. 1435/95.

pronounced, this the 9th day of Jan. 1997.

Coram: Hon'ble Shri M.R. Kolhatkar, Member(A).

1. G.M. Pardeshi,
Senior Chargeman in 512
Army Base Workshop, Kirkee,
Pune - 411 003. ... Applicant.

(By Advocate Shri Suresh Kumar)

2. Original Application No. 1125/96.

1. C.J. Jadhav,
Senior Charge Man,
No. A/1 4691473 X.
B. Veh Section,
512 Army Base Workshop,
Kirkee,
Pune - 411 003. ... Applicant.

(By Advocate Shri Suresh Kumar)

V/s.

1. Union of India Through
Secretary to Government of India,
Ministry of Defence, South Block,
New Delhi-110 011.
2. The Director General of EME,
Directorate General of EME,
Master General of the Ordinance Branch,
Army Headquarters,
New Delhi - 110 011.
3. The Commander,
Headquarters,
Technical Group EME,
Delhi Cantt. 110 010.
4. The Officer in Charge,
EME Records, Secunderabad - 500 021.
5. The Commandant,
512, Army Base Workshop, Kirkee,
Pune - 411 003. ... Respondents.
(By Advocate Shri R.K. Shetty)

...2.

O R D E R

¶ Per Shri M.R.Kolhatkar, Member(A) ¶

As the parties in both the cases are common viz. employees of Army Base Workshop, Kirkee Pune and as the issue is identical viz. fixation of pay, the facts in same are being decided by a common order. For reference / **O.A.** No.1435/95 are being taken.

2. The main issue involved in this case is whether ^{employee} when the ~~Govt~~ ^L is promoted from one post to the other, where ~~both~~ both posts have identical pay scale viz. Rs.1400-2300 he is entitled for the benefit of F.R. 22(I)(a)(1).

3. The applicant was working in the post of Master Craftsman w.e.f. 1.4.1989 in the pay scale of Rs.1400-2300, the payment of the applicant was fixed at Rs.1640/-. He was then further promoted to the grade of Senior Chargeman in the same pay scale w.e.f. 29.4.1991. The pay of the applicant was fixed at Rs.1720/- p.m. in the promotional post in accordance with the provision of F.R. 22(I)(a)(1), by order dt. 31.12.1991. However, the pay of the applicant was subsequently re-fixed by letter dt. 20.4.1992 at Rs.1640/- and the earlier fixation was cancelled. An amount of Rs.1567/- was recovered from the salary of the applicant and the applicant is being paid at the lower rate of pay at present. The prayer of the applicant is that the respondents be directed to restore the pay fixation dt. 31.12.1991 and to refund Rs.1567/- illegally recovered from the applicant.

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4. The Respondents have opposed the O.A. According to them, the earlier pay fixation on promotion of the applicant to the post of Senior Chargeman was required to be revised downwards after obtaining advice of CGDA, New Delhi. Since the feeder and promotional grade has been merged based on the recommendation of IVth Pay Commission and there is a common pay scale viz. Rs.1400-2300 the question of applicability of FR 22(I) (a)(1) does not arise.

5. The applicant relies on the Full Bench Judgment of Bajrang Sitaram Wanjale and Others V/s. Union of India & Ors. (1994 (2) ATJ 13). In that case the employees were working in the grade of Master Craftsman, thereafter they were promoted to the post of Chargeman Gr.II, but their pay was fixed taking into account the presumptive pay drawn as Tradesman Gr.A, but not as Master Craftsman. The ^{Tribunal} considered whether the threefold conditions in the old F.R.22 C corresponding to the new F.R.22(I)(a)(1) were satisfied. The Tribunal held that those three conditions were satisfied and in particular went ^{into} the question of whether the post of Chargeman Gr.II to which the government employee has been promoted carried duties and responsibilities of greater importance than those ^{to the post earlier} attached/held by the petitioners. The applicant also relies on Ramesh Chand V/s. Union of India & Another (1993(2) (CAT) SLJ 95) in which relying on B.D.Verma V/s. UOI (1988(2) SLJ (CAT) 581) and keeping in view

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the fact that F.R. / which had earlier placed a restriction on conferring the benefit of FR 22(c) if pay scale^{of} / other posts carried identical time scale, has been deleted from F.Rs. The Tribunal held that the post of Inspector of Post Offices carries the responsibilities and duties of greater importance than the post in the feeder category and granted the relief.

6. In the present case we had directed the respondents to produce before us the duties and responsibilities of the post of Senior Chargeman^{and} / these are as below :

- "(a) Discipline, General Supervision of all personnel employees in his section, output and general cleanliness of the section.
- (b) Will officiate for short period as Group/Section Officer during the absence of Group/Section.
- (c) Will ensure that every tradesman is employed to the best of his capabilities and will facilitate the upgrading and promotion of those who are suitable qualified.
- (d) Will ensure that no unauthorised or unqualified persons handle the machine held in his section.
- (e) Will mark attendance of the tradesmen of his section.
- (f) Will plan and forecast requirement of spares and other materials progressing the work as per repair schedules.
- (g) Will get the repairs to the equipments in the section executed in accordance with the existing repair schedules.
- (h) will bring to the notice of the Group/section officer all cases of negligence or bad workmanship.
- (i) Will ensure security of the Group/Section under his control and will take precautions against fire risk."

From the duties and responsibilities, it is clear that

though the post of Master Craftsman and Senior Chargeman carries the same scale, but Master Craftsman is a post in the Industrial category of the Tradesman Grade, whereas, the post of Senior Chargeman is a post of Non- Industrial category and carries supervisory duties. The post of Master Craftsman, however, does not carry supervisory duties. I am therefore, of the view that even though the post of Master Craftsman and Senior Chargeman carry the same scale, since the post of Senior Chargeman carries higher duties and responsibilities than the post of Master Craftsman, the pay fixation of the applicant was done correctly on 31.12.1991 and the action of the respondents in ^{making} a downward revision of the pay fixation and in ^{making} recovery of the alleged over payment is clearly wrong. The O.A. ~~is~~ therefore, must succeed ~~and~~ The O.A. is allowed with a direction that the respondents may restore the pay fixation of the applicant given by order dt. 31.12.1991 and refund the amount of Rs.1567/- recovered from the applicant, pay the arrears of the revised pay for the period from one year prior to the date of filing of the O.A. and continue to pay to the applicant the pay as refixed in terms of these orders. There will be no order as to costs.

(M.R.KOLHATKAR)
MEMBER (A)

B.