

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.88/95.

Wednesday, this the 12th day of January, 2000.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
Hon'ble Shri D.S.Baweja, Member (A).

1. B.R.Lokhande,
2. G.C.Supekar,
3. G.D.Kulkarni,
4. V.B.Pandit,
5. D.V.Bhadle,
6. N.B.Bhandari,
7. B.M.Kadam,
8. V.K.Gund,
9. Shivaji Gabale,
10. B.B.Gawali,
11. P.P.Chorghade,
12. V.M.Lembhe,
13. C.D.Umardand,
14. S.B.Sarphale,
15. G.S.Pawar,
16. R.M.Kumbhar,
17. V.S.Shetke,
18. P.B.Pawar,
19. B.G.Kalamkar,
20. D.R.Gare,
21. R.S.Saikar,
23. J.George,
24. D.R.Mundhe,
25. A.D.Dalavi,
26. K.S.Kanjabhat,
27. R.D.Pedhekar,
28. B.R.Rawade,
29. S.A.Kalokhe,
30. J.R.Shelke and
31. C.D.Nagarkar,

All the above applicants
are working at
Ammunition Factory, Khadki,
Pune - 411 003.

...Applicants.

(By Advocate Mr.R.C.Raviani)

Vs.

1. Union of India through
the Secretary,
Ministry of Defence,
South Block,
New Delhi - 110 011.
2. The Chairman,
Ordnance Factories Board,
10-A, Auckland Road,
Calcutta - 700 001.

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3. The General Manager,
Ammunition Factory,
Khadki,
Pune - 411 003.Respondents.
(By Advocate Mr.R.K.Shetty)

: O R D E R (ORAL) :

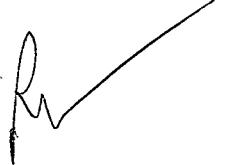
(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

This is an application filed under section 19 of the Administrative Tribunals Act, 1985. The respondents have filed their reply opposing the application. We have heard Mr.R.C.Ravlani, the learned counsel for the applicants and Mr.R.K.Shetty, the learned counsel for the respondents.

2. The applicants who are working in different trades in the Ordnance Factory have come up with the present application seeking a direction to respondents to fix their pay in the scale of Rs.260-400 w.e.f. 16.10.1981 and to pay them arrears. Alternatively, there is a prayer to direct the respondents to refer the applicants' case to an Expert Committee for revaluation.

The substance of the applicant's case is that they were working in semi-skilled grade of Rs.210-290. The Government appointed an 'Anomalies Committee' which took the question of revaluation of Trades and Jobs. On that basis the Government has upgraded certain Trades w.e.f. 16.10.1981 and given the pay scale of Rs.260-400. The applicants grievance is that their Trades were not taken into consideration by the Anomalies Committee and that Committee has not re-valued the Trades of the applicants for the purposes of upgrading their Trades to skilled grade. As a

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result, the applicants were given only the lesser pay scale of Rs.210-290. But, after two years, they have been given the pay scale of Rs.260-400. The applicants' grievance is that their Trade should also have been upgraded to skilled grade and they should also have been given the pay scale of Rs.260-400 w.e.f. 16.10.1991.

3. The respondents defence is that Courts and Tribunals cannot go into the question of fixation of pay or evaluation of jobs, that the application is highly belated and barred by limitation, that the revision of pay scale is the executive function of the Government and not to be interfered with by a Court or Tribunal, that the job of evaluation has to be done by Expert Body and not by Courts or Tribunals. It is therefore, stated that the applicants have not made out any case for granting reliefs prayed for in the OA.

4. After hearing both the counsels and going through the materials on record, we find that the applicants have been given the skilled grade after two years. Now, the basic grievance of the applicants is that they must get the skilled grade from 16.10.1981. Therefore, the question is one of granting some monetary benefit to the applicants for the ~~first~~ two years of service, because, after two years they have already got the skilled grade. The OA was filed in 1995 claiming monetary relief for the period from 1981 to 1983, which is about 12 years prior to the date of OA. Now, we are in 2000. As on to day, the claim is about 20 years old. The question is, at this stage viz. after two decades this Tribunal should interfere with this matter by granting higher pay scale for the first two years service from 1981 to 1983. On the face of it, the claim is barred by delay

and limitation. Of course, the applicants have filed M.P. for condonation of delay.

The learned counsel for the applicant contended that the applicants' Federation was having correspondence with the Government and therefore, there was delay on the part of the applicants to approach this Tribunal. Mere making correspondence or sending repeated representations will not arrest limitation, particularly when we are concerned with monetary claim. Therefore, in the facts and circumstances of the case we find that the claim is hit by delay and also limitation.

5. As far as merits are concerned, no doubt the Anomalies Committee has not considered the ~~grades~~ of the applicants for the purpose of job evaluation. If that was not done, then the applicants or their Federation should have taken up the matter with the Government for referring this question to the Expert Committee, but this Tribunal cannot now evaluate the jobs of the applicants to find out whether their trade should be treated as skilled grade from 1981 itself. As already stated, the grievance now is reduced to granting some monetary benefit for the first two years of service from 1981 to 1982. This Tribunal cannot take the case of evaluating the job and grant monetary benefits and that too after such a lapse time.

6. In fact, the respondents have produced a Judgment of the Madras Bench of this Tribunal in OA 677/86 and connected cases decided on 24.7.1987. The Tribunal dismissed those applications, but of course, made an observation that it is always open to the Government to consider the representation of the officials. But, on merits the application was dismissed by the Madras Bench of the Tribunal.

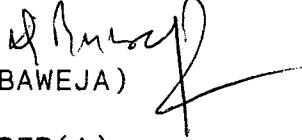
7. We may also notice that the applicants' grievance about fixation of pay on the basis of IIIrd Pay Commission Report. The respondents counsel brought to our notice that subsequently the IVth Pay Commission Report has come and 10 years later the Vth Pay Commission Report has also come. Now, therefore, it is too late in the day for us to go back to the IIIrd Pay Commission as sought for by the applicants. The learned counsel for the applicants relied on Bhagwan Sahai Carpenter and Ors. Vs. UOI and Another {{1989) 10 ATC 70}. In our view, on facts, the decision is not applicable to the present case. In that case, the dispute was about the cut off date for granting monetary benefit. The government accepted certain trades for skilled grade on the basis of the Expert Committee's Report and granted benefit from 15.10.1984. The Supreme Court held that it should be given effect from 16.10.1981. The question of job evaluation or giving a higher pay scale by the Tribunal or Court did not arise for consideration in that case.

8. In this connection, we may point out that in an identical case the Bangalore Bench of the Tribunal had granted the relief sought for by the applicants in that case for getting higher pay scale like the skilled grade. The Government of India took up the matter in appeal before the Supreme Court. The Supreme Court allowed the appeal and reversed the Judgment of the Bangalore Bench of the Tribunal in an unreported Judgment dt. 30.8.1986 in Civil Appeal Nos. 11486 and 11487/90 (Union of India and Ors. Vs. S. Yogananda and Ors.), by observing that Courts and Tribunals should not undertake the exercise of fixing pay scales or reviewing pay scales. In view of the law declared by the Apex Court, we are constrained to hold that the applicants in the

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present case cannot ask this Tribunal to evaluate their job and to give them higher pay scale during the period from 1981 to 1982. It is always open to the Government to consider the grievance of the officials and take a decision for giving higher pay scale, but it is a matter which cannot be granted by a Tribunal or Court. If and when the applicants make a representation, it is always open to the Government to consider the same according to law regarding pay scales etc.

9. In view of the above discussion, we hold that no relief can be granted by this Tribunal to the applicants. In the result, the application is dismissed. No order as to costs.


(D.S. BAWEJA)

MEMBER(A)


(R.G. VAIDYANATHA)

VICE-CHAIRMAN

B.