

MUMBAI
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
MUMBAI

O.A.No. 1179 of 1997

DATE OF DECISION: 21-9-2001

1. S.V.Saroda & others.

..Petitioner(s)

Mr.R.Ramesh

:Advocate for
the Petitioner(s)

Versus

1. UOI, through the Secy., M/o Defence,
D/o Defence Production & Supplies,
New Delhi & others.

:Respondent(s)

Mr.R.K.Shetty

:Advocate for
the Respondent(s)

THE HON'BLE SRI Justice V.Rajagopala Reddy, Vice Chairman
THE HON'BLE ~~SRI~~ Smt.Shanta Shastry, Member(Admn.)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether His/Their Lordship wish to see the fair copy of the ~~g~~ Judgement ?
4. Whether the Judgement is to be circulated to the other Benches ?

JUDGEMENT DELIVERED BY HON'BLE ~~SRI~~ Smt.Shanta Shastry, Member(A)

[Signature]

HSS

m(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: MUMBAI BENCH:

MUMBAI

O.A.No.1179 of 1997.

Date of Order:21-9-2001.

Between:

1. S.V.Sarode.	10. B.M.Patil.
2. V.A.Sasi.	11. S.A.Mahajan.
3. K.V.Thankachan.	12. J.V.Koli.
4. C.M.Mahajan.	13. K.S.Sonawane
5. S.J.Shegkar.	14. S.B.Kate.
6. S.C.Mahajan.	15. V.D.Pardeshi.
7. S.T.Ayyarde.	16. S.R.Taide
8. P.Haridasan.	17. L.P.Ingale.
9. R.K.Malik.	

....Applicants

and

1. Union of India, through the Secretary, M/o Defence, D/o Defence, Production & Supplies, Govt. of India, South Block, New Delhi-110 001.
2. The Chairman, Ordnance Factory Board, 10-A, Shaheed Khudiram Bose Road, (Auckland Road), Calcutta-700 001.
3. The General Manager, Ordnance Factory, Varangaon, Dist.Jalgaon, Maharashtra-425 308.

....Respondents

Counsel for the Applicants :: Mr.R.Ramesh

Counsel for the Respondents :: Mr.R.K.Shetty

Coram:

The Hon'ble Sri Justice V.Rajgopala Reddy, Vice Chairman
The Hon'ble Smt. Shanta Shastry, Member(Admn.)

....2

: O R D E R :

(Per Hon'ble Smt. Shanta Shastri, Member(Admn.))

None appears for the Applicants either in person or through Counsel. Mr. R.K. Shetty, Counsel for the Respondents appeared.

2. We are therefore proceeding in terms of Rule 15(1) of the CAT(Procedure) Rules to dispose of the OA on the basis of the pleadings on merit.

3. The applicants are working as Mill Wright in the Ordnance Factory at Varangaon under Respondent No.3. They have passed 4 years' course from the Indian Technical Institute conducted by the National Council for Training in vocational trades. All the applicants have put in 10 years of service in the trade of Mill Wright. There are different grades in the said trade viz., Semi-Skilled, Skilled, Highly Skilled Grade-II, Highly Skilled Grade-I, Chargeman Grade-II and Chargeman Grade-I. According to the applicants, the chances of promotion ^{however,} are very limited. The course undergone by them covers most of the syllabus prescribed for the Draughtsman Mechanical Course. The Draughtsman gets a starting pay of Rs.1200-2040/- It was further revised to Rs.1400-2300/- on the lines of the pay scales given to Draughtsman in other Departments of the Central Government. It is the grievance of the applicants that even after undergoing a more rigorous

training of 4 years, which included apprenticeship, they got a starting pay of only Rs.800/-, whereas the Mill Wrights in some other departments of the Central Government are drawing much higher starting pay scale and the applicants have been deprived of their rightful claim. The Mill Wright is also designated as Maintenance Mechanic or Tradesman in various departments of the Central Government. It is again further grievance of the applicants that even the Skilled Mill Wright is not given the grade of Rs.950-1500/-. The applicants have therefore prayed that the respondents be directed to grant the applicants the following scales of pay, with a further direction that promotions to each of the grades after Skilled grade be granted every 4 years on a time-bound basis as given to similarly placed and similarly qualified employees of IRSO:

i)	Semi Skilled	-Rs.1150-1500
ii)	Skilled	-Rs.1320-2040
iii)	Highly Skilled Gr.II	-Rs.1400-2300
iv)	Highly Skilled Gr.I	-Rs.1400-2600
v)	Chargeman Gr.II	-Rs.1640-2900
vi)	Chargeman Gr.I	-Rs.2000-3500

Further to grant promotions and scales of pay from the date each of the applicants ^{were} promoted to the Skilled Grade and following the time bound schedule of promotions with all consequential benefits or from such other date as this Tribunal may consider just and proper.

The applicants have also demanded costs.

4. The respondents submit at the outset that this is purely a matter of policy as granting of certain pay scales is the prerogative of the Central Government on the basis of the recommendations made by the expert bodies. The learned Counsel for the Respondents has also referred to the various Judgements of the Supreme Court, wherein it has been held that it is not the domain of the Tribunal to fix the pay scales or grant pay scales, but of expert bodies. In particular, the learned Counsel has cited the Judgement in the case of UNION OF INDIA & ANOTHER Vs P.V.HARIHARAN & ANOTHER (1997 SCC(L&S) & (JT 1997 (3) S.C.569), 838), wherein the following observations have been made:-

"Before parting with this appeal, we feel impelled to make a few observations. Over the past few weeks, we have come across several matters decided by Administrative Tribunal on the question of pay scales. We have noticed that quite often the Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated as well as those situated above and below, put forward their claims on the basis of such change. The Tribunal should realise that interfering with the prescribed pay scales is a serious matter. The Pay

Commission which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue. Very often, the doctrine of "equal pay for equal work" is also being misunderstood and misapplied, freely revising and enhancing the pay scales across the board. We hope and trust that the Tribunals will exercise due restraint in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales".

5. The learned Counsel for the Respondents further states that thereafter the pay scales have been revised in terms of the recommendations of IVth Central Pay Commission as well as Vth Central Pay Commission and certainly the applicants had every opportunity to place their grievance before these Pay Commissions. Therefore/the present demand is barred by the Principles analogous to the principle of Res-judicata and constructive Res-judicata.

6. The respondents have further submitted that after completion of 4 years training in Mill Wright trade and after getting NCTVT Certificate, the applicants were offered appointment in the Semi-Skilled post in the scale of Rs.800-1150/- as per SRO 185 of 94 after test/interview as per rules.

and the applicants accepted the offer without any protest. Having accepted the job and the conditions of appointment, they cannot now compare with other candidates in other Central Govt. Departments. It is also stated that there is no time bound promotion fixed in Ordnance Factories, but the applicants would be considered for promotion according to their seniority and on passing the trade test subject to availability of vacancies.

7. We have heard the learned Counsel for the Respondents.

8. We agree that this is a matter relating to grant of pay scales. As rightly pointed out, it is not for this Tribunal to decide on particular pay scales to be granted to the applicants. It is a specialised job to be done by the expert bodies like the Pay Commission. Further there is no material produced in the OA to show that the duties and responsibilities of the applicants are comparable or identical to others drawing higher pay scales.

9. In view of this, we are not inclined to interfere in this matter. Accordingly, the OA is dismissed. No costs.

Ranu J

(Smt. Shanta Shastry) (V. Rajagopala Reddy)
Member(A) Vice Chairman

Dated: this the 21st day of September, 2001

Dictated in the Open Court

DSN

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Review Petition No.72/2001
in OA No.1179/1997

25th June, 2001

CORAM:HON'BLE SHRI S.L.JAIN, MEMBER(J)
HON'BLE SMT. SHANTA SHAstry, MEMBER(A)

S.V.Sarode and Ors

... Applicants

V/s.

Union of India & Ors.

... Respondents

This review petition has been filed in OA-1179/97 which was dismissed by order dated 21/9/2001. The review petition of the applicant in the aforesaid OA.

The review of the judgement and order is sought on the ground that the OA was heard and disposed of in the absence of the applicants and their advocate. This was not justified because the OA had been brought out of the sine die list with very short notice and placed on the Final Hearing Board without reasonable notice to the applicants. Secondly, an application for adjournment was made for the matter to be adjourned to the next working day but the same was turned down and since the matter was at serial no.10 in the cause list, it was expected that the OA would come up for hearing on that day. However, the OA has been disposed of in the absence of applicants on merits.

The OA has been disposed of only on General principles of law. The Supreme Court as well as various benches of the Tribunal and High Court have been passing orders to grant higher pay scales in respect of employees as given to similar employees in other departments and therefore it is not correct to say that grant of pay scales on par with comparable categories is a specialised job to be done by the expert body like the Pay Commission. The review petitioners have cited a judgement and

...2.

:2:

order dated 10/1/2001 by Hon'ble Shri S.R.Adige, Vice Chairman(A), Principal Bench in OA-538/93 wherein relief was granted of higher paygrade in comparison with similar categories in other department.

The review petitioners have further pointed out that it is not correct to say that no material was produced to show the duties and responsibilities of applicants is comparable to other categories drawing higher paygrades. The Tribunal did not refer to the averments in the OA or to the annexures of the OA, which would go to show that the said observation of the Tribunal is not justified.

We have heard Shri S.Ramamurthy for Shri R.Ramesh for the applicants in this matter. We have considered the grounds taken for the review. In our considered view, the matter was duly decided in the absence of the applicants in terms of Rule-15 of the CAT Procedure Rules 1987. It was also decided on merits. Although the applicants claim that averments had been made in the OA and the Annexures to the OA about duties and responsibilities of the applicants comparable with some other categories, the learned counsel for the applicants was unable to show us any material even at the time of the hearing of the Review Petition to substantiate the averments made. Further even if a similar matter has been decided by another Bench, it cannot a ground for review.

...3.

Even the Supreme Court has observed in the case of Lily Thomas etc etc. appellant v/s. Union of India, respondents (AIR 2000 SC 1650) that the power of review can be exercised for correction of a mistake and not to substitute a view 'The review cannot be treated as an appeal in disguise. The mere possibility of two views on a subject is not a ground for review.

We therefore hold that there is no error apparent on the face of the record which calls for a review. Accordingly, the review petition is rejected.

Shanta J

(SMT. SHANTA SHAstry)
MEMBER(A)

S.L.Jain

(S.L.JAIN)
MEMBER(J)

abp